

## **METROPOLITAN AREA PLANNING COMMISSION**

### **MINUTES**

**April 24, 2003**

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, April 24, 2003, at 1:30 P.M., in the Planning Department Conference Room, 10<sup>th</sup> floor, City Hall, 455 North Main, Wichita Kansas. The following members were present: Bud Hentzen, Chair; Kerry Coulter (in @ 1:35), Vice-Chair (out @ 3:40); Jerry McGinty Morris; K. Dunlap; Don Anderson; Elizabeth Bishop; Jerry Michaelis; Ron Marnell; Bill Johnson (in @ 1:33, out @ 4:31); Harold Warner; Frank Garofalo; Ray Warren (out @ 4:25) James Barfield (in @ 1:33, out @ 3:17) and John McKay, Jr., (out @ 4:12). David Wells was not present. Staff members present were: Dale Miller, Secretary; Donna Goltry, Assistant Secretary; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Scott Knebel, Senior Planner; Jamsheed Mehta, Transportation Supervisor; Nalini Johnson, Principal Planner and Rose Simmering, Recording Secretary.

1. Adoption of McAdams Neighborhood Revitalization Plan. Generally located 17<sup>th</sup> Street on the north Hydraulic to Central Avenue on the east, Central Avenue on the south and Mosley on the west, presentation by David Barber.

NALINI JOHNSON, Planning staff presented case for David Barber.

The McAdams Plan Committee has been developing the Plan over the last two years. The Committee feels that they have now developed a draft plan for the revitalization of the McAdams neighborhood that has broad-based neighborhood support, support from the two active neighborhood associations, and support from City and County officials.

Presentations of the draft Plan were made to DAB I on April 7<sup>th</sup> and also to the Board of Park Commissioners on April 14<sup>th</sup>. The Plan has received full endorsement from both of these Boards.

Staff recommends that following public comment, the MAPC pass a resolution adopting the McAdams Neighborhood Revitalization Plan dated March 2003, as an element of the Wichita-Sedgwick County Comprehensive Plan.

The Chairman of the MAPC then opened up the Public Hearing to hear comments from the public, either for or against the McAdams Neighborhood Revitalization Plan. No one from the public requested to speak to the Plan. The Chairman closed the Public Hearing.

**MOTION:** To approve a resolution adopting the McAdams Neighborhood Revitalization Plan dated March 2003 as an element of the Wichita-Sedgwick County Comprehensive Plan.

**MCKAY** moved, **BISHOP** seconded the motion, and it carried (10-0).

2. **Approval of MAPC meeting minutes April 10, 2003.**

**MOTION:** That the minutes for April 10, 2003 be approved.

**GAROFALO** moved, **MARNELL** seconded the motion, and it carried (12-0).

3. **Consideration of Subdivision Committee Recommendations**

- 3-1. **SUB2003-16 – Final Portion of Overall Preliminary Plat – EVERGREEN FOURTH ADDITION, located on the south side of 29<sup>th</sup> Street North, west of Maize Road.**

- A. As this site is adjacent to Wichita's City limits, the Applicant shall submit a request for annexation. Upon annexation, the property will be zoned SF-5, Single-Family Residential and allow for the lot sizes being platted. The final plat shall not be scheduled for City Council review until annexation has occurred.
- B. The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. **City Engineering** needs to comment on the drainage plan. **An off-site drainage easement is needed. A guarantee is needed for drainage improvements.**
- E. **Traffic Engineering** has approved the 58-ft width of Parkdale if restricted to No Parking on both sides of the street. A restrictive covenant shall be provided specifying this requirement.
- F. **City Fire Department has requested a temporary 20-ft wide emergency access easement of AB-3 rock extending north to 29<sup>th</sup> St. North until the development of the second phase. The emergency access easement shall be established by separate instrument. The text of the instrument shall indicate the type of driving surface to be installed and address**

**installation and maintenance. Standard gating and signing are required per City Fire Department standards.**

- G. The platlor's text shall note the dedication of the street to and for the use of the public.
- H. Provisions shall be made for ownership and maintenance of the proposed reserves for the subsequent phase of development. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- I. The applicant shall submit a covenant which provides for four (4) off-street parking spaces per dwelling unit on each lot which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- J. The applicant shall guarantee the paving of the proposed streets. The guarantee shall also provide for sidewalks on at least one side of Parkdale.
- K. **GIS** needs to comment on the plat's street names. **Bristle Cone shall be revised to "Bristlecone".**
- L. A temporary turnaround is needed for Bristle Cone.
- M. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- N. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- O. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- P. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- Q. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- R. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in  
  
Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- S. Perimeter closure computations shall be submitted with the final plat tracing.
- T. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- U. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property.
- V. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

**MOTION:** To approve, subject to staff comments and citing the findings in their report.

**MCKAY** moved, **JOHNSON** seconded the motion, and it carried (13-0).

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**3-2. SUB2003-27 – One-Step Final Plat – WHITE ELEMENTARY ADDITION, located east of Hydraulic, north of 55<sup>th</sup> Street South.**

- A. Municipal services appear to be available to serve the site. **City Engineering** needs to comment on the need for guarantees or easements. **No guarantees or easements are needed.**
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved.**

- D. **Traffic Engineering** has requested that the applicant obtain a minor street privilege permit for the on-street parking along Kansas.
- E. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- F. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- G. The platting text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- H. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- I. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- J. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- K. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- L. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- M. Perimeter closure computations shall be submitted with the final plat tracing.
- N. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- O. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property.
- P. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

**MOTION:** To approve, subject to staff comments and citing the findings in their report.

**MCKAY** moved, **JOHNSON** seconded the motion, and it carried (13-0).

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**3-3. SUB2003-31 – One-Step Final Plat – WICHITA FAMILY VISION ADDITION, located on the west side of Tyler Road, south of Central.**

- A. Municipal services appear to be available to serve the site. **City Engineering** needs to comment on the need for guarantees or easements. **No guarantees or easements are needed.**
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **A drainage plan is needed.**
- D. Access controls have been platted in accordance with the Protective Overlay. The plat proposes one access opening along Tyler. "Access control except one opening" shall be denoted on the face of the plat.
- E. A cross-lot access agreement shall be provided with the commercial property to the north.
- F. A Protective Overlay Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved Protective Overlay and its special conditions for development on this property.
- G. The owners noted in the platting binder need to be signatories to the plat, or a revision to the binder showing that the site's

ownership is in the party now shown on the final plat.

- H. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- I. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- J. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- K. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- L. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- M. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- N. Perimeter closure computations shall be submitted with the final plat tracing.
- O. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- P. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- Q. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

**MOTION:** To approve, subject to staff comments and citing the findings in their report.

**MCKAY** moved, **JOHNSON** seconded the motion, and it carried (13-0).

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**3-4. SUB2003-29 – One-Step Final Plat – BRIGHTON COURTS ADDITION, located south of 21<sup>st</sup> Street North, west of Webb Road.**

- A. The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved. A guarantee is required.**
- D. **Traffic Engineering** needs to comment on the 32-ft right-of-way width platted for the internal street. **The right-of-way width is approved.**
- E. The Applicant shall guarantee the paving of the proposed streets.
- F. The applicant has indicated that the parking areas adjoining the internal street will be included as "parking easements" within individual lots. The parking easements shall be referenced in the platlor's text specifying that the easements are granted for residential parking only and that no obstructions shall be constructed or placed within the easements.
- G. The final plat tracing shall state in the platlor's text the purposes of the proposed reserves as well as the ownership and maintenance responsibilities.
- H. **County Surveying** has noted that several centerline dimensions need added.
- I. **County Surveying** has noted that dimensions on Reserve "A", Lot 32 and Lot 18 need added.
- J. Since this is a replat of a previous Addition involved with the ownership and maintenance of reserves which are not being replatted by this Addition, a restrictive covenant shall be submitted which provides for this Addition to continue to share in the ownership and maintenance responsibilities of any such previously platted reserves.

- K. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- L. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- M. **City Fire Department** needs to comment on the street length of the internal street (1100 feet). The Subdivision Regulations limit urban cul-de-sacs to 800 feet in length unless an emergency access easement is proposed. **City Fire Department has requested that the width of both entry drives be increased to 32 feet. The right-of-way width at the turnaround needs to be increased to 32 feet.**
- N. Since this plat proposes the platting of narrow street right-of-way with adjacent "15-foot street drainage and utility easements", a restrictive covenant shall be submitted which calls out restrictions for lot-owner use of these easements. Retaining walls and change of grade shall be prohibited within these easements as well as fences, earth berms and mass plantings.
- O. The applicant shall submit a covenant which provides for four (4) off-street parking spaces per dwelling unit on each lot which abuts a 32-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- P. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.
- Q. **GIS** has requested that the new street be named Paddock Green. The loop street at the north should be named Paddock Green Cir and the other cul-de-sacs emanating from Paddock Green should be named Paddock Green Ct.
- R. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- S. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- T. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- U. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- V. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- W. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- X. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- Y. Perimeter closure computations shall be submitted with the final plat tracing.
- Z. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- AA. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property. **Westar Energy requests additional easements.**
- BB. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

**MOTION:** To approve, subject to staff comments and citing the findings in their report.

**MCKAY** moved, **JOHNSON** seconded the motion, and it carried (13-0).

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**3-5.     SUB2003-30 – One-Step Final Plat – REED'S COVE SECOND ADDITION, located south of 21<sup>st</sup> Street North, east of 127<sup>th</sup> Street East.**

- A. Petitions have been provided with Reeds Cove Addition for sewer, water and paving improvements. **City Engineering** has requested that the applicant provide new guarantees.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved.**
- D. The applicant shall submit a covenant which provides for four (4) off-street parking spaces per dwelling unit on each lot which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- E. Since this is a replat of a previous Addition involved with the ownership and maintenance of reserves for that Addition, but not being replatted by this Addition, the above covenants and/or other legal documents shall be provided which provides for this Addition to continue to share in the ownership and maintenance responsibilities of any such previously platted reserves.
- F. Each of the four lots should be labeled as Lot 1, and contained within Blocks 1, 2, 3 and 4.
- G. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- H. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- I. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- J. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- K. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- L. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- M. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- N. Perimeter closure computations shall be submitted with the final plat tracing.
- O. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- P. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property.
- Q. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

**MOTION:** To approve, subject to staff comments and citing the findings in their report.

**MCKAY** moved, **JOHNSON** seconded the motion, and it carried (13-0).

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**3-6.     SUB2003-26 – One-Step Final Plat –NORTHLAKES COMMERCIAL ADDITION, located west of Meridian and on the south side of 53<sup>rd</sup> Street North.**

- A. This site is located over the Equus Beds aquifer in the Groundwater Management Area. The **Equus Beds Management District** needs to comment on the use of on-site sewage facilities for this property. **Equus Beds Management District recommends connection to public sewer or in the alternative, the use of a lined sewage lagoon.**

- B. **City Environmental Health** recommends extension of sanitary sewer services. In the event sanitary sewer is not available, the use of a temporary on-site sewage system is recommended.
- C. **City Water and Sewer Department** requests a petition for future extension of sanitary sewer and water services. In the event the applicant proposes to extend City sewer at this time to serve the property, a petition shall be provided.
- D. Since neither sanitary sewer nor municipal water is available to serve this property, the applicant shall contact **County Code Enforcement** to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage and water wells. A memorandum shall be obtained specifying approval. **A restrictive covenant is required that prohibits non-domestic wastes on the site until public sewer is available in addition to limiting the site to use of an alternative sewage system until public sewer is available.**
- E. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- F. **County Engineering** needs to comment on the status of the applicant's drainage plan. **A drainage plan is needed. Offsite drainage easements may be required.**
- G. **County Engineering** needs to comment on the access controls, particularly the need for a specific location for the access opening. The plat proposes one access opening along 53rd St. North. Distances should be shown for all segments of access control. The final plat shall reference the dedication of access controls in the plat's text. **County Engineering has requested that the location of the access opening across from Gow Street be denoted on the final plat.**
- H. **County Engineering** has requested additional right-of-way along 53rd St. North. The Access Management Regulations requires a 60-ft half-street right-of-way width along urban/rural arterials.
- I. The plat's text shall note the dedication of the street to and for the use of the public.
- J. The applicant is reminded that this site is located within three miles of the City Limits of Wichita and will be heard by City Council. Therefore, the City Council signature block needs to be included on the final plat tracing.
- K. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- L. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- M. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- N. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- O. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- P. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- Q. Perimeter closure computations shall be submitted with the final plat tracing.
- R. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- S. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property.
- T. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

**MOTION:** To approve, subject to staff comments and citing the findings in their report.

**MCKAY** moved, **JOHNSON** seconded the motion, and it carried (13-0).

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- 3-7. **SUB2003-07 – Final Plat –FOX RIDGE ADDITION, located on the north side of 29<sup>th</sup> Street North, between Maize Road and Tyler Road.**
- A. As this site is adjacent to Wichita's City limits, the Applicant shall submit a request for annexation. Upon annexation, the property will be zoned SF-5, Single-Family Residential and allow for the lot sizes being platted. The final plat shall not be scheduled for City Council review until annexation has occurred.
  - B. The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted.
  - C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
  - D. **City Engineering** needs to comment on the status of the applicant's drainage plan. **Stormwater Management has advised that the drainage study for this area has been completed. City Engineering has approved the drainage plan.**
  - E. **Traffic Engineering** has approved the 58-ft right-of-way width of Fox Ridge Parkway contingent upon no parking which should be denoted on the plat. A guarantee for left turn lanes is needed along Fox Ridge Parkway at the intersections of Den Hollow, Grey Fox, and Brush Creek.
  - F. **Traffic Engineering requests a contingent traffic signal at the Fox Ridge Parkway entrance on Maize Road. Left turn lanes are also needed along Tyler and Maize. Traffic calming devices are also requested.**
  - G. The plat proposes complete access control along the plat's frontage to Maize, 29th St. North, and Tyler. The final plat shall reference the dedication of access controls in the plat's text. **Traffic Engineering and City Fire Department request the extension of Silver Hollow Ct to 29th North through a paved temporary emergency access. Upon construction of the entrances along both Maize and Tyler, the emergency access may be removed.**
  - H. The Access Management Regulations require an additional 25-ft x 25-ft corner clip at the intersection of Tyler and 29th St. North which may be platted as a street easement. **This easement has been platted as requested; however it needs to be labeled.**
  - I. The Applicant shall guarantee the paving of the proposed streets. The guarantee shall also provide for sidewalks on at least one side of all non cul-de-sac streets including the loop streets and on both sides of Fox Ridge Parkway which is functioning as a collector.
  - J. The paving guarantee shall include construction of a paved surface for the emergency access easements. The text of the instrument shall indicate the type of driving surface to be installed and address installation and maintenance. Standard gating and signing are required per City Fire Department standards.
  - K. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted to have a wetland determination completed.
  - L. A site plan shall be submitted with the final plat for the pool/clubhouse included in Reserve U, for review and approval by the Planning Director. The site plan shall include the information indicated in the Subdivision Regulations. Otherwise a conditional use and public hearing will be needed in the future.
  - M. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities. This covenant shall also provide for the Homeowners' Association to maintain the "parking strip" located between this site's east, south and west property lines and driving surface for the perimeter streets.
  - N. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
  - O. **City Fire Department** needs to comment on the street length of Den Hollow Ct (1,850 feet) and Den Hollow Cir (1800 feet). The Subdivision Regulations limit urban cul-de-sacs to 800 feet in length unless an emergency access easement is proposed. **A connection needs to be platted between Den Hollow Ct and Fox Ridge Parkway.**
  - P. The applicant shall submit a covenant which provides for four (4) off-street parking spaces per dwelling unit on each lot which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
  - Q. Approval of this plat will require a waiver of the lot depth to width ratio of the Subdivision Regulations for Lots 28-32, Block 1 along Silver Fox Circle. The Subdivision Regulations state that the maximum depth of all residential lots shall not exceed 2.5 times the width. **This modification has been approved.**
  - R. **GIS** needs to comment on the plat's street names. **Revised street names are requested. The applicant shall meet with GIS to resolve this issue prior to MAPC meeting.**



- S. The applicant shall submit a copy of the instrument which establishes the pipeline easements on the property, which verifies that the easements shown are sufficient and that utilities may be located adjacent to and within the easements. Any relocation, lowering or encasement of the pipeline, required by this development, will not be at the expense of the City of Wichita.
- T. The recording information for all pipeline easements shall be indicated on the face of the plat.
- U. For the pipeline easement on the property, the final plat shall include in the labeling of the easement the name of the company benefiting from the easement agreement. The Subdivision regulations discourage the inclusion of pipeline easements within the perimeter of residential lots. It is recommended that the pipeline crossing the plat be included within a Reserve, or in the alternative a restrictive covenant provided identifying the pipeline easement. **The applicant is working with the Pipeline company to have this easement confined. The applicant shall provide documentation addressing permitted uses in that pipeline easement.**
- V. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- W. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- X. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- Y. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- Z. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- AA. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- BB. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than one acre in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- CC. Perimeter closure computations shall be submitted with the final plat tracing.
- DD. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- EE. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. **Westar Energy and SBC have requested additional easements.**
- FF. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

NEIL STRAHL, Planning staff presented staff report.

WARREN I think we should to hear from the agent first.

HENTZEN We need to hear from staff first, are you finished Neil.

STRAHL Yes.

MCKAY Neil they haven't been able to come to a conclusion or they haven't met?

STRAHL They have met. They haven't been able to come up with a consensus.

MCKAY Is that street named Cora there west of Maize Road?

STRAHL Yes

MCKAY Is that the only Cora in the whole area ...that little street area there. Is that supposed to be a designated collector? Is that the only street named Cora?

STRAHL I don't know.

WARREN I have heard that maybe there was some concessions and/or negotiations that the agent could talk about here that maybe could solve this problem without all this other testimony.

GREG ALLISON, MKEC Engineering Consultants, 411 N. Webb Road, Wichita, KS 67206 We have met with the Street Name Committee and have not been able to reach an agreement with them. We have an agreement that is different today and would like to present this to you today. Early on, the opposition stemmed around that there are a lot of street names that have Ridge in the name. This is a compromise on our part. Here is a map that I am handing out, and in the yellow area you will see the location of our plat and where the road intersects Maize Road. That is where we line up with the street Cora. I do believe this is the only area in town with the name Cora and that this street does not extend further east or west from here. On our original plat we had our street lining up in between 31<sup>st</sup> and Cora and not directly across Cora, but part of the Subdivision request was to get the street to line up and we brought our final plat back to Subdivision Committee with it lining up. At that time, the name that we had chosen - Foxridge - had not been a problem yet, and then it came up at the final plat time. What I would like to propose is the street name which is directly east of here, Westlakes. We would name our street Westlakes and it would propagate this name further west. We felt like with the new Subdivision names that we do have, that Cora wasn't a name that they would want within their Subdivision. Westlakes will be an appropriate name.

MCKAY Have you presented this new proposal to the Committee?

ALLISON I did talk to Jennifer Chambers on the phone earlier this week and at that time I suggested Forest Park or Westlakes. We prefer Westlake to be the name, and we got to looking at our site and there are not a lot of trees on our site so we thought Forest was not as appropriate as Westlakes.

GAROFALO Westlakes does not line up with that street at all, does it?

ALLISON I think that it can since the street winds through there. Having named other streets before I know that they don't always line up exactly. I do know that probably the majority of it would line up with it. Maybe where it comes out at Maize Road it is not exactly but ...

GAROFALO It doesn't line up at Tyler.

ALLISON It is pretty close. It is closer on Tyler I guess.

BISHOP The properties that are directly east along Tyler those are large properties and no streets that come through there?

ALLISON That is correct they are 5-10 acre tracts that have homes on them already, so there won't be a street that comes through there at all.

WARREN There will be no houses fronting this street.

ALLISON With this development, that whole stretch of road is a collector road that has no access to any houses on this road, and therefore won't be addressed. However, we will have some Westlakes Courts, if that is the appropriate name, using Westlake Court but on the main collector there will be no houses at all fronting that.

MARNELL Does Westlakes appear anywhere else other than what looks like a 2 block stretch here?

ALLISON I looked at that and I think it is shorter than Cora. I think this is pretty much where Westlakes is as well, and my contention on that is I know they are both kind of short streets but I think as the City moves out west and you get more developers coming through, they are going to prefer the name Westlakes versus Cora.

BISHOP Are you going to change the name of the addition or is still going to be Fox Ridge?

ALLISON No, we will keep the name of the addition.

GAROFALO If we sent this back to the Address Committee, would you have problem with that?

ALLISON I probably wouldn't have a problem if we can get somewhere by doing that. If not, I would rather have it decided today.

HENTZEN Would the Address Committee like to speak?

JENNIFER CHAMBERS, Chair of the Wichita-Sedgwick County Address Committee Our contention is street continuity--that Cora is across the street and that this street should have the same name. We had two meetings with Greg, discussing the name Fox Ridge and the different names within that addition and we did come to some agreements on some of the other street names, but the committee on two different occasions voted unanimously that the street should be named Cora. I would have to look at Westlakes and research more on the street name. I am not sure if that is a north-south street or an east-west street. Greg and I did talk about Forest Park, which does not line up on the map. We offered them some suggestions, and maybe change the existing Cora street name. They could contact the homeowners there and see what they thought about that, but the people in that addition like that name Cora. I am not so sure why they are opposed the name Cora. For safety measures, streets that intersect across from each other should have the same name. It is easier for 911 to remember one street name rather than small pieces of streets all over the County, which seems to be happening quite a bit lately or for years it has been happening. Currently there are 51 streets that use Ridge as part of their street name. The post office, who is also part of our Address Committee even says that some of the mail sometimes get misdirected.

The following memo is for your review and handed out at today's meeting:

The Wichita-Sedgwick County Address Committee is developing standards and guidelines for assigning of unique address identifiers for homes, businesses, and /or properties. This committee is also reviewing plats to ensure that street names, numbers, suffixes, and definitions are consistent with the proposed standards and guidelines.

At the March 11 Address Committee meeting, the vote was to unanimously oppose the use of Fox Ridge as a street name in the proposed Fox Ridge Addition. The vote to oppose this street name is based on the following:

- Emergency Services - The concern is the potential for confusion when citizens needing emergency services call Sedgwick County's Emergency Communications (911). When citizens are calling 911 for emergency services, they have a tendency to frantically report the location of their emergency and can occasionally mis-communicate. Emergency services personnel on the Address Committee were concerned about the delay in reporting and relaying the correct information to emergency responders because of its similarity with several other street names that already utilize "Ridge". There are currently 51 street names that currently use Ridge as part of their street name.
- Cora Street Name - Cora is an existing street name that is west of Maize Rd. between 29<sup>th</sup> St. N. and 37<sup>th</sup> St. N. Cora is immediately west of the proposed Fox Ridge Addition and "lines up" with the location for the proposed Fox Ridge street name. As shown in the attached map, Cora would be directly across the street from the proposed Fox Ridge street name.
- Street Names throughout Sedgwick County – GIS records show that 76% of the street names throughout Sedgwick County have a total length of less than 1 mile. The Address Committee is trying to minimize the number of street names throughout Sedgwick County. This would hopefully curtail the tendency to duplicate some version of existing street names and avoid the potential for confusion when citizens need emergency services.

The recommendation of the Address Committee is to replace Fox Ridge with Cora as a street name in the proposed Fox Ridge Addition.

HENTZEN Are you prepared to respond to their new idea today or that you want more time to review that proposal?

CHAMBERS I am not prepared to say that Westlakes would work; we need more time to review with the Committee.

DUNLAP Let's turn that around. Are you prepared to say that you will not accept anything except Cora?

CHAMBERS That was our unanimous vote on two occasions was naming the street Cora.

DUNLAP Why send it back to the Address Committee with a new name because you aren't going to accept anything but Cora?

CHAMBERS I am not prepared to say that entirely.

BISHOP How many property owners are on Cora?

CHAMBERS There are 8 homes, I believe.

WARREN Maybe I need to ask the applicant where is Forest Park?

ALLISON Forest Park lines up right underneath where the word Forest Park is and Westlakes is right above where the Westlakes name is.

WARREN What we looked at the Subdivision Committee is that street naming can have an effect on the marketing of an addition. The addition runs a full country mile from Tyler to Maize. When we don't give them options they have to go in and name a lot of those courts the same name. So we will have Cora all over that addition, and I think it was significant to the applicant on their ability to market this addition, and I think we need to help the applicant. They are not going to have a lot 911 calls coming in because there are no addresses on that street.

CHAMBERS There are address on the Courts that would have the same name as that street.

WARREN That is right, and Cora is not a name that I would want if I were developing that area for all my streets, and that is what they are dictating and Subdivision had a problem with that as well.

WARREN What Subdivision did was approve the plat subject to negotiations on the names. The vote was 3-0. We left it open and now what has happened is--now it has come to us as a full commission. We didn't resolve it but we also did not take into consideration Forest Park or Westlakes either at that time. It was either Fox Ridge, which we understood would maybe be a problem, or Cora. So that was the only consideration before us at Subdivision. Now we have some new considerations for all of us.

HENTZEN I have been on Cora Street while working for one of the people some years ago, and I had to look up where it is every time.

MARNELL I have something to say when we get to that point during the meeting. I don't think you help your cause Jennifer Chambers when you bring something before a Commission like this and you complain that there are 51 street names that currently use Ridge. When you are going to talk about somebody making an emergency call how many street names use the name Road. Like Rock Road.

CHAMBERS I don't think there are any that use the name Road. Road is a street type; it is not part of the street name. There is a core street name, which would be Douglas, Kellogg, Forest Park. Road is not part of the name of the street. Road is the street type as in road, street, drive, circle, court.

MARNELL I think your argument was that you should stick to the point that we shouldn't be naming streets that adjoin each other across major intersections like Maize and change the name at that point.

JOHNSON Since we did hear this at Subdivision, the applicant is right--the streets did not line up and they agreed to (line the streets up). Once the Fire Department, 911, and the Address Committee expressed the concerns of the Ridge problem. I can understand that and I think that is the reason we felt they could resolve this without coming to Planning Commission. Now it sounds like they came up with a new name today, and when I hear this presentation made by staff, I feel like it is set in stone that it has to be Cora. So I guess if we knew that a month ago, it probably would have been Cora and we would have been on down the road. I thought Ridge was a real problem.

BARFIELD There is, as I understand it, only 8 addresses on Cora, and it appears to me that we change the name of Cora on both sides.

MARNELL Unless you live on Cora.

BARFIELD Only 8 addresses.

MCKAY If they can't come to agreement with the applicant, the applicant should live with Cora or sit down and resolve with staff.

WARREN The applicant has already conceded Fox Ridge, which is the name of the development in which he wanted desperately and even fought for that name and he has made a concession to that point.

**MOTION:** To approve Item 3-7 subject to staff comments and subject to the name of that arterial street through that addition being either Forest Park or Westlakes with the decision being that of G.I.S. and they can have their pick of one of those two names either Forest Park or Westlakes.

**WARREN** moved, **ANDERSON** seconded the motion.

MARNELL I am going to oppose that motion for the reason that the Address Committee is right on this. We shouldn't change names of streets like that--having streets that hit at major intersections with changed names on the left side or right side. I think it is poor planning and not in the interest of the public safety or broader community or the general public as well.

WARREN You think the street name should be Cora?

MARNELL I don't care what it is, if they want to change Cora to Forest Park or Westlakes that would be fine. I think the policy problem is bad is creating all these small streets when we can actually do something about it and you've got one there existing. So either the developer names it Cora or pays to have the people on Cora for all the materials to change it that way. I can't remember the last time I looked for a house based on the address or in terms of what the street name was.

**SUBSTITUTE MOTION:** To defer for two weeks to allow these people to get together and work this out.

**BARFIELD** moved, **BISHOP** seconded the motion.

WARREN I am going to oppose the substitute motion because he made a concession already.

BISHOP I would like to point out that is a large collector street on a huge subdivision. Therefore, at some point in time a traffic light will probably have to be done at that time.

MICHAELIS I am going to oppose the substitute as well because Jennifer Chambers says they are not going to work with the applicant and deferring two weeks will not resolve anything.

WARREN I would like the applicant to come forward again. Would you like to have a two-week delay or concede to the street name Cora.

MARV SCHELLENBERG, Developer/Owner of the project, at 7926 W. 21<sup>st</sup>, Wichita, KS 67206 I hated to make an issue of such a small item. There have been items that we work together with the City. I, by no means, wanted to have that road hooked up to Cora, but because I did see that it was a potentially dangerous intersection. And so, in order to even do that, I had to totally realign the gas line and that was expensive for me but I saw the positiveness behind that. Marketing-wise when you have your main arterial street--this is a 390 home site community that will have homes from \$160,000 to \$700-800,000--and it is a main corridor road that runs through it, and to some people it may sound like who cares if it is Cora or Ben or whatever, but to me it is very important. Because marketing-wise it is the main thoroughfare that goes through that. So that is why I am here today; to request that we make that change. If it was just a small street, I wouldn't even be up here to request that, but it is a full one mile arterial road through the development. Just listening, I don't think going back to the Address Committee is going to change anything because they sound pretty solid on Cora. I was hoping to get this finalized because I am ready to get things platted and I didn't want to slow things down.

ANDERSON I think the developer has said that he doesn't want to use Cora and there is a large investment being made and we should be able to help him instead of having him trying to sell houses on Cora. I don't think that makes sense at all. I want to deny this substitute motion and then vote on the main motion.

BARFIELD I clearly heard Jennifer Chambers say that she could change the name on both sides of the street. Change Cora for those 8 houses; that would work for the both of them. The postal service has a problem, the 911 has a problem. We are at a standstill.

**SUBSTITUTE MOTION:** To defer for two weeks to allow these people to get together and work this out.

**BARFIELD** moved, **BISHOP** seconded the motion.

**MOTION FAILS:** 5-8. (Opposed **WARREN, DUNLAP, HENTZEN, COULTER, McKAY, JOHNSON, MICHAELIS, ANDERSON**).

**MOTION:** To approve Item 3-7 subject to staff comments and subject to the name of that arterial street through that addition being either Forest Park or Westlakes with the decision being that of G.I.S. and they can have their pick of one of those two names either Forest Park or Westlakes.

**WARREN** moved, **ANDERSON** seconded the motion.

MICHAELIS I would like to ask the motion maker to limit it to Westlakes, which is what everybody seems to be agreeable on and help take out some of that indecision.

WARREN Forest Park or Westlakes and let G.I.S. decide.

**MOTION CARRIES:** 8-5. (Opposed **MCGINTY, BISHOP, MARNELL, GAROFALO, and BARFIELD**).

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**4-1. VAC2003-08 – Request to Vacate a Portion of a Platted 30-Foot Setback.**

**OWNER/APPLICANT:** Donald & Grace Sullivan  
**LEGAL DESCRIPTION:** See Exhibit A  
**LOCATION:** Generally located northeast of the 31<sup>st</sup> Street North – Amidon intersection, 3225 Coolidge  
**REASON FOR REQUEST:** Carport  
**CURRENT ZONING:** Subject property and all adjacent properties are zoned SF-5 Single-Family Residential.

The applicant is requesting vacation of a portion of the platted 30-foot setback of Lot 15, Block 1, Wilfred E Wheelers Replat, 3225 Coolidge. A proposed carport will encroach 14-feet, with a width of 12-feet into the platted 30-foot setback, putting the proposed carport 16-feet from the property line. The UZC has a minimum 25-foot setback for the SF-5 zoning district. The Wilfred E Wheelers Replat Addition was recorded 03-14-1950.

Planning Staff recommends approval to vacate only that portion of the 30-foot setback as shown in Exhibit A. Staff recommends that a metes and bound description of the encroachment be provided and that a covenant be recorded with the County, that would allow the carport to encroach into the platted front setback as described in the metes and bound description. The covenant would be in effect for the time when vehicles with disability tags would be using the carport. When the vehicles with disability tags are not being used the carport becomes an illegal nonconforming structure and must be demolished within 60 days of the end of its use for vehicles with disability tags.

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, by publication in the Derby Reporter, of notice of this vacation proceeding one time April 3, 2003 which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by the vacation of the above-described portion of the platted 30-foot setback and the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner, the prayer of the petition ought to be granted.

B. Therefore, the vacation of the portion of the platted 30-foot setback described in the petition should be approved subject to the following conditions:

- (1) The applicant shall provide a metes and bound description of the encroachment.
- (2) The applicant shall provide a covenant to be recorded with the County, that would allow the carport to encroach into the platted front setback as described in the metes and bound description. The covenant would be in effect for the time when vehicles with disability tags would be using the carport. When the vehicles with disability tags are not being used the carport becomes an illegal nonconforming structure and must be demolished within 60 days of the end of its use for vehicles with disability tags.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
- (4) All improvements shall be according to City Standards.

**SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:**

The Subdivision Committee recommends approval subject to the following conditions:

- (1) The applicant shall provide a metes and bound description of the encroachment.
- (2) The applicant shall provide a covenant to be recorded with the County that would allow the carport to encroach into the platted front setback as described in the metes and bound description. The covenant would be in effect for the time when vehicles with disability tags would be using the carport. When the vehicles with disability tags are not being used the carport becomes an illegal nonconforming structure and must be demolished within 60 days of the end of its use for vehicles with disability tags.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
- (4) All improvements shall be according to City Standards.

**MOTION:** To approve, subject to staff comments and citing the findings in their report.

**MCKAY** moved, **JOHNSON** seconded the motion, and it carried (13-0).

5. **Case No.: CUP2003-13 DP-203 Amendment #2** - Fidelity Bank, c/o Judy Hill, Vice President (owner); P.E.C. c/o Rob Hartman (agent) request Amendment to The Whispering Brook Community Unit Plan on property described as;

Lot 1, Block 1, Whispering Brook Commercial 2nd Addition to Wichita, Sedgwick County, Kansas. Generally located West of Woodlawn and south of 37<sup>th</sup> Street North

**BACKGROUND:** The applicant is requesting that DP-203 Whispering Brook C.U.P. be amended to revise the screening wall requirements for Parcel 1 if the parcel is developed with a bank. The proposed amendment would allow in place of a screening wall, a solid evergreen screen and berm from the west property line to the eastern edge of the bank building and a landscaped street yard along the remaining property line extending to Woodlawn. No additional changes are requested to the C.U.P.

The proposed landscape plan shows 14 *Picea glauca* 'Densata' Black Hills White Spruce spaced 11 feet apart along the southern property line except for the eastern 50 feet. The spruce tree row is embellished with a row of evergreen shrubbery on its southern flank to provide solid screening at the base of the trees. The planting strip would form the northern edge of a landscaped reserve of the Whispering Brook subdivision located north of Brookview Street.

Currently, the C.U.P., which is 11.7 acres in size and is zoned "LC" Limited Commercial, has one large parcel that is developed with a Dillons SuperCenter grocery store and a fuel outlet. A outparcel at the corner of 37<sup>th</sup> Street North and Woodlawn would remain for future development.

The Whispering Brook subdivision is located to the west and south. It is developed with single-family residences on property zoned "SF-5" Single-family Residential. LaCrosse, a garden-style apartment complex, is located across Woodlawn to the east. The LaCrosse property is zoned MF-29 Multi-family. The rest of the property on the east side of Woodlawn between K-96 and 37<sup>th</sup> Street North is zoned "LC" Limited Commercial except for a small "NR" Neighborhood Retail tract. The property north of 37<sup>th</sup> Street near Woodlawn is developed with office warehouse and commercial uses.

**CASE HISTORY:** DP-203 Whispering Brook C.U.P. was approved in January 1992. It was amended on October 17, 2000. The main amendments were to allow the nursery and garden center in conjunction with the grocery store and modify the uses allowed in the various parcel. Amendment #1 did not affect the requested use of a bank, which was already permitted by the original C.U.P. approval.

The application area was platted as Whispering Brook Commercial Addition in August 1992.

**ADJACENT ZONING AND LAND USE:**

NORTH: "LC", "B-1" General Commercial (Bel Aire)	Commercial, residence
SOUTH: "SF-5"	Single-family residences
WEST: "SF-5"	Single-family residences
EAST: "LC", "MF-29", "NR"	Retail, restaurants, office, apartments

**PUBLIC SERVICES:**

The property is located along Woodlawn, shown as a four-lane arterial street on the 2030 Transportation Plan. A left-turn fifth lane was added between Brookview Street and 37<sup>th</sup> Street North as part of the development improvements for the Dillons project. Annual average daily traffic (ADT) was 13,000 vehicles in 2002 for Woodlawn between K-96 and 37<sup>th</sup> Street North. This is projected to increase to an ADT of 24,000 in the year 2030.

Other normal public services are available to serve the property.

**CONFORMANCE TO PLANS/POLICIES:**

The Wichita Land Use Guide of the 1999 *Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area for "commercial" use. It is typical of the neighborhood shopping center ranging from 4-15 acres in size, typically anchored by a supermarket and being located at one or two corners of an arterial street intersection.

The Comprehensive Plan objective for commercial use (**Objective III.B**) is to "Develop future retail/commercial areas which complement existing commercial activities, provide convenient access to the public and minimize detrimental impacts to other adjacent land uses". **Strategy III.B.2** recommends to "integrate the development of out parcels in relation to planned retail centers through shared internal vehicular and pedestrian circulation, combined signage, similar landscaping and building materials, and combined ingress/egress locations.

Banks and financial institutions are a Conditional Use in the "GO" General Office zoning district of the Unified Zoning Code. Consequently, banks are considered to be less intensive than other types of general retail uses that are not allowed (by right or conditional use) until the "NR" zoning district. UZC screening requirements for office uses can be met by either a solid wall with some landscape buffering or by more extensive landscaping within a minimum 15-foot wide landscape buffer consisting of at least one tree and five shrubs per 30 lineal feet of common property line. However, Unified Zoning Code requirements for C.U.P.s include placement of a wall on interior property lines forming the boundary between commercial and residential uses. This UZC requirement can be modified by waiver approval of the Metropolitan Area Planning Commission or the Governing Body (Art. III, Sec. III-C.2.d).

**RECOMMENDATION:**

Banks and financial institutions are often considered the transitional use between office and retail uses. The drive-through activities of the proposed bank is located on the north side of the parcel, farthest away from the Whispering Brook residential neighborhood and 110 feet north of the property line. The proposed landscaping provision exceeds the UZC screening requirements of Art. IV, Sec. IV-B.3.a for office and institutional screening along interior property lines. Furthermore, the interior property line functions more like a landscaped street yard since it abuts a reserve area used for landscaping purposes bordering Brookview Drive. Based on these factors and the information available prior to public hearing, staff recommends the amendment to add General Provision 12(D) be APPROVED as requested.

1. The zoning, uses and character of the neighborhood: The area has commercial uses to the north and northeast at the intersection of 37<sup>th</sup> and Woodlawn, including a bank, convenience store, car rental agency, and a small strip center. Higher density residential uses are located across Woodlawn. Lower density residential uses zoned "SF-5" are located to the south and west. The property is zoned "LC" Limited Commercial, which is appropriate for the proposed use.
2. The suitability of the subject property for the uses to which it has been restricted: The property could be developed in conformance to the existing C.U.P. plan. This amendment would affect screening requirements for Parcel 1 on the southern boundary of the C.U.P. only.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The maintenance of the landscaping materials would need to be continued for it to be an effective screen for the residential neighborhood to the south. The maturity of the landscaping screen will take a few years to achieve, although the plant spacing should provide a good measure of screening even at installation.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The proposed amendment, as recommended, is in conformance with the Comprehensive Plan.
5. Impact of the proposed development on community facilities: No impact is anticipated by this amendment.

DONNA GOLTRY, Planning staff presented staff report.

GAROFALO I notice on the present C.U.P. Item #12 general provisions says, "That the masonry wall along the south line of Parcel #1 may be waved in lieu of a landscape buffer if the site is developed with a Bank. The landscape buffer would consist of a berm and solid evergreen and so forth..." I don't see any mention here of a berm in the report?

GOLTRY There is some berming shown on the landscape plans, and this is the proposed C.U.P. language not the existing language. This includes the modifications that they have requested.

MATT SCHINDLER, WILSON, DARNELL MANN ARCHITECT, representing Fidelity Bank, 105 N. Washington, 67202 Shows slides and site planting plan to the Planning Commission. The reason for the proposal is that plant screening looks better, and it will still accomplish the task of blocking traffic, noise, and trash from moving from the commercial property to the residential properties. The bank use does not generate trash, and does not hold trash outdoors. All of the bank's paperwork and trash is kept inside the building for security purposes until it is removed by the cleaning people. So no trash is ever present on the site for this particular use.

MICHAELIS What is the maturity time of these trees in the slides you have shown?

SCHINDLER These trees are 10 to 15 years old.

MICHAELIS How is that going to block the trash and the noise?

SCHINDLER We believe the trash will be blocked initially by the low shrub bed, which is going to catch anything that will be blowing across the parking lot. That is the reason for the two-component screening; one being the shrubs along the ground and the second being the trees to be a visual and sound block.

MICHAELIS So the shrubs will be continuous?

SCHINDLER Yes, at maturity. They are not necessarily going to be continuous and neither will the trees at planting time.

MICHAELIS That is my point. If they are not continuous, how do intend for them to block trash and noise?

SCHINDLER As you can see, these trees have actually grown together. And, I don't believe that it will take that long for these trees to be a somewhat solid screen. It certainly won't be completely dense within ten years, but they will generally provide a solid screen.

MICHAELIS When you started this project were aware of the agreement about the wall?

SCHINDLER Yes.

ROB HARTMAN, P.E.C., 303 S. Topeka, Wichita, KS 67212 I prepared the original C.U.P on this project and the uses were going to be pretty widespread. So that was the reason for the wall in the first place. The bank will be less intense use than a store etc. I think this will be a more pleasing look. We are providing one tree every 12 feet. These evergreens will be 6 feet in height when planted. We will be planting shrubs every 4 feet. We have doubled or tripled the landscaping required in the Code. All of this parking is on the north side of the building. There is a minimum setback on the south side of this lot of 35 feet. The applicant is going back further from the setback of 65 feet and has almost doubled the setback from what the minimum is. I think within four or five years the row of trees will look more pleasing then a masonry wall.

BISHOP What was C.U.P. Amendment #1 for? Do you know?

HARTMAN A greenhouse provision for Dillons outdoor storage was the first amendment. When we did the development of Dillons, it required widening Woodlawn and putting in turn lanes so that the traffic would flow better, and there have been a lot of improvements that have been put in place.

MCKAY What about 10 foot on evergreen instead of 6 foot?

HARTMAN Are we trying to screen the building or trying to contain trash or what?

MCKAY You guys are saying that you are going to be doing both.

HARTMAN I would like to submit it as it is right now, and see if that is acceptable to everybody. Like I said, they have increased the size of the trees already from what the Landscape Codes requires, they have about tripled the amount of evergreen trees from what the requirements are, in addition to the number of shrubs. We want to request to eliminated the actual berming so it wouldn't be needed with the lower shrubs.

PATTY WAY, PRESIDENT, WHISPERING BROOK HOMEOWNERS ASSOCIATION P O BOX 20662 WICHITA KS 67208-6662 We are requesting that the wall be completed. Two years ago when Dillons was proposed, the neighborhood met and was down at City Hall to review what was going to happen. And, at that time the neighborhood accepted the idea and thought we were getting the wall to protect are privacy. In January, we had a recent neighborhood meeting, and had about 81 happy owners. We knew at that time when something went into that parcel, and we knew it would be a bank, that the wall would be completed. Now we are not happy because they will not finish the masonry wall. Dillons has a lot of trash. They come out about 2 times a week on our side of the fence. Evergreens and bushes will do nothing but collect trash. They will take away the noise and the unsightly view of a parking lot or a black top. We have homes along Brookview Street that view over towards Dillons and the wall is aesthetically pleasing, and evergreens and bushes that have trash hanging in them from flying trash bags from Dillons will not be pleasing to the homeowners.

JEFF RIGGLE, 6118 Brookview Ct., Wichita KS 67220 Dillons does a great job right now. But those plastic bags fly and it collects there. I don't know if putting up the trees there--if they will be so willing to climb a tree and pull them out. We would just like to continue the masonry wall. There are two entrances into our neighborhood—one is off 37<sup>th</sup> and the other is off of Woodlawn--and to stop that wall ¾ of the way to Woodlawn we think that looks different to just stop it and round it off with evergreens that are going to take 6, 8, or 10 years before they do fill that space in to completely block that view.

BISHOP I was wondering in the event that a wall continues to be required have you considered that there be some pedestrian access?

RIGGLE I don't think that would be a good idea. There are sidewalks.

BARFIELD Is this same developer that promised to complete that wall?

PATTY WAY All I can say is that we saw plans that showed the wall being completed, and everybody accepted that we understood the bank might be at that corner. What if it is not a bank five years from now? We want to ensure are future now with a cement wall. I wouldn't want to live next to a parking lot.

HARTMAN It is a different developer now. I would like to address their concerns about trash. The bank will not allow trash in their shrubs or trees. The actual site itself is separated from any homes that are in the Whispering Brook development by about 140 feet. The closest house to this property line is 140 feet away, separated by a reserve strip, a street, and than another reserve strip. And the houses that are closest to this development do not back up or face this development itself.

MICHAELIS Does it say in the original C.U.P. to have a wall?

HARTMAN Yes, that is correct. As far as the use, changing the C.U.P. amendment restricts this landscape use to a bank only. If someone with a different type of use buys it, they would have to use the wall and pull out the trees.

WARREN What is the principal reason that you don't want that wall? Couldn't you put the wall in and do the landscaping?



HARTMAN Not really.

**MOTION:** To deny item #5.

**BARFIELD** moved, **MCGINTY** seconded the motion, and it carried (10-3) (**JOHNSON, MCKAY, MARNELL** opposed).

6. **Case No.: CUP2003-14 DP-111 Amendment #5** – Occidental Management c/o Gary Oborny (contract purchaser); Baughman Company c/o Terry Smythe (agent) request Amendment to The Mediterranean Plaza Community Unit Plan on property described as;

Lot 1, 2, 3, 8 and 9, Block 1, Mediterranean Plaza Commercial Second Addition, an Addition to Wichita, Sedgwick County, Kansas. Generally located Northeast corner of 29<sup>th</sup> Street North and Rock Road

**BACKGROUND:** The applicant requests an Amendment to Parcel 1 of DP-111 Mediterranean Plaza Commercial CUP. The subject property is a 4.84 acre platted tract located south of 32<sup>nd</sup> Street North and east of Rock Road at 3242 N. Rock Road. The subject property is zoned "LC" Limited Commercial and is developed with the Northrock 6 movie theater.

The applicant proposes to remodel and expand the existing movie theater building and convert the property into a 73,000 square foot multi-tenant commercial center. The applicant is requesting a CUP amendment to create Parcel 1A from Parcel 1 to reflect the boundaries of the applicant's ownership. The applicant also is requesting a CUP amendment to increase the allowed building coverage from 48,598 square feet to 73,002 square feet and to reduce the building setback along 32<sup>nd</sup> Street North from 75 feet to 50 feet.

The surrounding area is characterized by commercial uses near the interchange of the Rock Road and K-96. The properties immediately surrounding the subject property are developed with various commercial uses. The properties to the north, south, and west are zoned "LC" Limited Commercial. The properties to the east are zoned "GC" General Commercial.

**CASE HISTORY:** The subject property was approved for "LC" Limited Commercial zoning and DP-111 Mediterranean Plaza Commercial CUP in 1981. The CUP has been amended several times, primarily for the development of the Wal-Mart Supercenter and the Northrock 14 movie theater.

**ADJACENT ZONING AND LAND USE:**

NORTH: "LC"	Office, retail, restaurant, vehicle repair
SOUTH: "LC"	Bowling alley, retail, bank, office
EAST: "GC"	Movie theater, retail, office, vehicle repair
WEST: "LC"	Retail, restaurant, convenience store, vehicle repair

**PUBLIC SERVICES:** The subject property has direct access to 32<sup>nd</sup> Street North, a local commercial street, and cross-lot access to Rock Road, a six to seven lane arterial street. The Traffic Engineer and the Transportation Division of the Planning Department have reviewed the potential traffic impacts of the proposed 73,000 square foot commercial center and have determined that recently constructed traffic improvements in the vicinity are sufficient to handle additional traffic generated by the proposed use. The subject property is currently served by municipal water and sewer service.

**CONFORMANCE TO PLANS/POLICIES:** The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for "Commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. The development of this property shall proceed in accordance with the approved development plan, and any substantial deviation of the plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
2. Any major changes in the development plan shall be submitted to the Planning Commission for consideration.
3. The applicant shall submit four folded copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of the amendment, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is characterized by commercial uses near the interchange of the Rock Road and K-96. The properties immediately surrounding the subject property are zoned for and developed with various commercial uses. The requested CUP amendment is consistent with the zoning, uses, and character of the neighborhood.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned "LC" Limited Commercial, and is currently developed with a movie theater. The proposed use of the subject property is currently

permitted by "LC" Limited Commercial zoning district, and the requested CUP amendment will make the subject property more suitable for redevelopment as a multi-tenant commercial center.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The screening, lighting, and compatibility standards of the Unified Zoning Code and the landscaped street yard, parking lot screening, and buffer requirements of the Landscape Ordinance should limit noise, lighting, and other activity from adversely impacting surrounding residential areas, which are far removed from the subject property.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for "Commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The requested CUP amendment conforms with these guidelines of the Comprehensive Plan.
5. Impact of the proposed development on community facilities: The Traffic Engineer and the Transportation Division of the Planning Department have reviewed the potential traffic impacts of the proposed 73,000 square foot commercial center and have determined that recently constructed traffic improvements in the vicinity are sufficient to handle additional traffic that could be generated if the requested CUP amendment is approved.

SCOTT KNEBEL, Planning staff presented staff report.

GAROFALO The increase in the development will there be enough parking related to the size of the building that they are going to have?

KNEBEL Yes, there will be. The parking requirement for retail is actually significantly less than for a theatre.

**MOTION:** To approve, subject to staff comments and citing the findings in their report.

**MCKAY** moved, **MICHAELIS** seconded the motion, and it carried (13-0).

7. **Case No.: ZON2003-15** – Leo Marvin & Vivian L. Rink (owner) request Zone change from "LC" Limited Commercial to "SF-5" Single-family Residential on property described as;

The South 600 feet of the East 600 feet of the Southeast Quarter of Section 32, Township 26 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas. Generally located Northwest corner of 29<sup>th</sup> Street North and Tyler Road

**BACKGROUND:** The applicant is requesting that the 8.26 acre site currently zoned "LC" Limited Commercial be rezoned to "SF-5" Single-Family Residential. The site is located on the northwest corner of 29<sup>th</sup> Street North - Tyler Road intersection and is part of 260 acres, north and west of the site, being platted as the Fox Ridge Addition; SUB2003-07. The Fox Ridge Addition proposes to have 390 "SF-5" zoned single-family lots. The zoning change request will allow the site's 8.26 acres match the zoning of the rest of the subdivision. The site is currently being used for agriculture.

The surrounding area consist of recently developed single-family residential, some recently developed duplexes, land being readied for development as single-family residential and agricultural land. The site and the land abutting it on its north and west sides are actively being used for agriculture, while being advertised as the site of a new single-family residential subdivision; the Fox Ridge Addition. The site, as well as the other three (3) corners of the intersection, is zoned "LC". These 600 foot (x) 600 foot commercial nodes are the result of the 1958 Sedgwick County initiated re-zoning of land within the projected growth areas of the County. The abutting land on the site's north and west sides are currently zoned "SF-20".

Land south of the site and across 29<sup>th</sup> Street North is zoned "TF-3" and "SF-5", with development reflecting the zoning. There is an undeveloped "LC" zoned site (a site is less than the original 600 foot (x) 600 foot commercial node) on this southwest corner of the intersection. Land southeast of the site and across the 29<sup>th</sup> Street North – Tyler Road intersection is zoned "SF-5", is platted and work on the land is beginning to prepare it for single-family residential development. There is an undeveloped "LC" zoned node on this southeast corner of the intersection. Land east and northeast of the site, across Tyler Road, is zoned "TF-3" and "SF-5", with development reflecting the zoning or the land being used for agriculture. There is a small, undeveloped "LC" zoned site on this southeast corner of the intersection.

**CASE HISTORY:** The site is part of the Fox Ridge Addition; SUB2003-07. SUB2003-07 was approved by the MAPC's Subdivision Committee at their March 27, 2003 meeting and will be considered by the MAPC at today's, April 24, 2003 meeting. The Fox Ridge Addition plat will not go to the WCC until this zoning request is considered/approved and the platted area is annexed into the City of Wichita. An annexation request has been submitted.

**ADJACENT ZONING AND LAND USE:**

NORTH: "SF-20" Single-Family	Agriculture
EAST: "LC" Limited Commercial	Vacant, single-family residential
"SF-5" Single-Family Residential	duplexes
"TF-3" Duplex	
SOUTH: "SF-20" Single-Family	single-family residential
"TF-3" Duplex	duplexes, vacant

"LC" Limited Commercial  
WEST: "SF-20" Single-Family

Agriculture

**PUBLIC SERVICES:** As part of the Fox Ridge Addition, the site will have emergency access onto either 29<sup>th</sup> Street North and access onto Tyler Road. Currently Tyler Road and 29<sup>th</sup> Street North are two (2) lane arterials at this location, but the 2030 Transportation Plan calls for them to be upgraded to four (4) lane arterials. Traffic count projections are being recalculated in consideration of the recently approved location of a bridge over the Wichita – Valley Center Floodway that will connect 25<sup>th</sup> St North and 29<sup>th</sup> Street North, as well as the recent surge in large- scale single-family residential subdivisions in the area and the Maize School district building a new schools north of the area. City water and sewer service to be extended to site was called out during the platting process.

**CONFORMANCE TO PLANS/POLICIES:** The Land Use Guide of the *1999 Update to the Comprehensive Plan*, as amended 01-02, identifies the general location as appropriate for "commercial" development. Residential development is permitted by right in the "LC" zoning district and the proposed zoning to "SF-5" is in conformance with that policy.

**RECOMMENDATION:** Based upon the information available prior to the public hearing, staff recommends the request be APPROVED subject to the plat being completed within a year.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Currently, the majority of this area is either recently developed urban scale single-family residential and duplex or it has been platted and is being developed for urban scale single-family residential. The agricultural use of the land in the area is quickly being replaced by this residential development. The undeveloped land in the immediate area are the commercial nodes at the 29<sup>th</sup> Street North – Tyler Road intersection. The recently approved location of a bridge over the Wichita – Valley Center Floodway that will connect 25<sup>th</sup> St North and 29<sup>th</sup> Street North is the most significant dynamic that will affect this area.
2. The suitability of the subject property for the uses to which it has been restricted: The site is approved for "LC" use and could be developed accordingly, however the recent development in this area has been low density residential, with the commercial nodes at the intersection being either reduced in size at two (2) corners or, in this case, removed.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Low density residential development is an appropriate use for this site/area and the zoning change from "LC" to SF-5" on the site will be in line with the recent low density residential development in the area.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The down-zoning request conforms to the policy of permitting residential development in the "LC" zoning district and matches up with the immediate areas low density residential use as recognized by the Comprehensive Plan.
5. Impact of the proposed development on community facilities: The proposed down zoning of the 8.26 acre site to "SF-5" when considered as part of the 260 acre low density single-family Fox Ridge Addition will increase traffic in the area, as anticipated by the Comprehensive Plan's recommending this general area as low density residential.

**MOTION:** To approve, subject to staff comments and citing the findings in their report.

**MICHAELIS** moved, **COULTER** seconded the motion, and it carried (13-0).

8. Case No.: ZON2003-14 - RAS Revocable Trust c/o Robert Snyder (owner/applicant); Ferris Consulting c/o Greg Ferris (agent) request Zone change from "MF-29" Multi-family Residential to "OW" Office Warehouse with a Protective Overlay on property described as;

That portion of Lot 10, Block B, Planeview Subdivision No. 2, Wichita, Kansas described as beginning at the southeasterly most corner of said Lot 10, thence N08 degrees 58'32"W, 213.70 feet; thence S81 degrees, 49'50"W, 234.71 feet; thence S08 degrees 10'10"E, 229.94 feet to the south line of said Lot 10; thence easterly, along the south line of said Lot 10, said south line being a curve to the left, having a radius of 1965 feet and through a central angle of 6 degrees 57'07", a distance of 238.42 feet to the place of beginning. Generally located North of Sunnybrook and east of Rutan.

**BACKGROUND:** The applicant requests a zone change from "MF-29" Multi-Family Residential to "OW" Office Warehouse on a 1.3 acre platted tract located north of Sunnybrook and east of Rutan at 3620 E. Sunnybrook. The applicant also requests a Protective Overlay to limit uses and increase screening and landscaping requirements (see attached letter).

The applicant indicates that the subject property is developed with a leasing office and maintenance facility for rental properties in the Planeview area. The applicant indicates that the use of the subject property was established in anticipation of developing apartment units on vacant land that the applicant owns surrounding the subject property. At such time as the apartment units were developed, the existing use of the subject property would become a permitted accessory use; however, since the apartment units will not be developed on the adjacent land, the applicant has requested a zone change to bring the use of the subject property into compliance with the zoning regulations. The applicant also has proposed a Protective Overlay to help ensure compatibility of the subject property with surrounding residential uses.

The surrounding area is characterized primarily by residential uses within the Planeview neighborhood; although, within two blocks of the subject property there is a sizeable commercial area interior to the Planeview neighborhood that is located at the intersection of Ross Parkway and Roosevelt. All of the property immediately surrounding the subject property is zoned "MF-29" Multi-Family

Residential. The vacant property north and west of the subject property recently has been replatted for single-family residential development. The properties south and east of the subject property are developed with a mixture of residential uses, primarily consisting of single-family residences, duplexes, and triplexes.

**CASE HISTORY:** The subject property is platted as a part of Planeview Subdivision No. 2, which was recorded August 30, 1955.

**ADJACENT ZONING AND LAND USE:**

NORTH: "MF-29" Vacant  
SOUTH: "MF-29" Single-family, duplex, triplex  
EAST: "MF-29" Single-family, duplex, triplex  
WEST: "MF-29" Vacant

**PUBLIC SERVICES:** The subject property has access to Sunnybrook, a paved local street. The subject property is currently served by municipal water and sewer service.

**CONFORMANCE TO PLANS/POLICIES:** The Land Use Guide of the Comprehensive Plan identifies the subject property as appropriate for "Low Density Residential" development; however, the subject property has never been developed with residential uses. Instead, the subject property has been used as a school and for governmental and institutional purposes and is developed with a non-residential structure not easily converted to or redeveloped for residential uses. The proposed use of the subject property as a leasing office and maintenance facility is a permitted accessory use when developed in conjunction with a multi-family development. Since the majority of properties in the Planeview neighborhood are rental properties, having a leasing office and maintenance facility located within the neighborhood will help ensure that the constant maintenance and repair needs of the surrounding rental properties are addressed in a timely manner to help reverse neighborhood decline. This is consistent with the Wichita Area Enhancement Strategy Map of the Comprehensive Plan, which classifies the surrounding area as a "Re-establishment Area" and encourages special enhancement strategies to reverse neighborhood decline. Also, since the entire facility is not occupied by the leasing office and maintenance facility, the requested zone change will permit use of the subject property for governmental, institutional, and community support uses to deliver needed services within the neighborhood to assist with the reversal of neighborhood decline consistent the "Re-establishment Area" enhancement strategies.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following provisions of a Protective Overlay District:

1. The following uses shall be permitted: college or university; community assembly; day care, general; government service; library; parks and recreation; recycling collection station, public or private; safety service; utility, minor; automated teller machine; construction sales and service; office, general; post office substation; vocational school; storage, outdoor; and warehousing.
2. Construction sales and service; storage, outdoor; and warehousing shall only be permitted in association with a leasing and maintenance office for rental properties.
3. Outdoor storage shall be limited to the area that is north of the existing building, which shall be entirely enclosed by a screening fence or wall and/or the walls of structures. Items stored outdoors shall not be visible from any adjacent street nor from ground level view from any adjacent property.
4. The property shall be developed in general conformance with the landscape street yard, landscape buffering, and parking lot screening requirements of the Landscape Ordinance per a landscape plan approved by the Planning Director.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is characterized primarily by residential uses within the Planeview neighborhood; although, within two blocks of the subject property there is a sizeable commercial area interior to the Planeview neighborhood that is located at the intersection of Ross Parkway and Roosevelt. The subject property has always been used for non-residential purposes; therefore, converting the subject property to a use that is traditionally accessory to higher density residential areas is consistent with the zoning, uses, and character of the neighborhood.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned "MF-29" Multi-Family Residential, and is currently developed with a non-residential structure. Conversion of the existing structure or redevelopment of the subject property for residential uses permitted in the "MF-29" district is not likely due to the expense involved and the deteriorated condition of surrounding properties making the site less desirable than other available properties for such a development. A more suitable use of the subject property is as a community support facility providing leasing services and maintenance for rental properties in the neighborhood, a use that requires the requested zone change.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The screening, lighting, and compatibility standards of the Unified Zoning Code and the landscaped street yard, parking lot screening, and buffer requirements of the Landscape Ordinance should limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The additional recommended provisions of a Protective Overlay District will supplement the base requirements to further address any detrimental impacts on nearby properties.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies the subject property as appropriate for "Low Density Residential" development; however, the subject property has never been developed with residential uses. Instead, the subject

property has been used as a school and for governmental and institutional purposes and is developed with a non-residential structure not easily converted to or redeveloped for residential uses. The proposed use of the subject property as a leasing office and maintenance facility is a permitted accessory use when developed in conjunction with a multi-family development. Since the majority of properties in the Planeview neighborhood are rental properties, having a leasing office and maintenance facility located within the neighborhood will help ensure that the constant maintenance and repair needs of the surrounding rental properties are addressed in a timely manner to help reverse neighborhood decline. This is consistent with the Wichita Area Enhancement Strategy Map of the Comprehensive Plan, which classifies the surrounding area as a "Re-establishment Area" and encourages special enhancement strategies to reverse neighborhood decline. Also, since the entire facility is not occupied by the leasing office and maintenance facility, the requested zone change will permit use of the subject property for governmental, institutional, and community support uses to deliver needed services within the neighborhood to assist with the reversal of neighborhood decline consistent the "Re-establishment Area" enhancement strategies.

**MOTION:** To approve, subject to staff comments and citing the findings in their report.

**MICHAELIS** moved, **COULTER** seconded the motion, and it carried (13-0).

9. **Case No.: ZON2003-17** – Mohammed Agakhani Sand Plum Investments, LLC c/o Len Marotte (co-applicant) request Zone change from "SF-5" Single-family Residential to "LI" Limited Industrial on property described as;

The East 715 feet of the following described tract: A tract in the Northeast Quarter of Section 29, Township 26 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, described as beginning 1323.75 feet south of the Northeast corner of Lot 1, in said Northeast Quarter; thence South 330.24 feet; thence West parallel to the north line of said Northeast Quarter 1319.62 feet more or less to the west line of the East Half of said Northeast Quarter; thence North 330.24 feet; thence East 1318.5 feet more or less to the point of beginning, EXCEPT the North 165 feet of the East 505 feet thereof. Generally located North of 43<sup>rd</sup> Street North and west of Webb Road

**BACKGROUND:** The applicants request a zone change from "SF-5" Single-Family Residential to "LI" Limited Industrial on the approximate 5.4-acre site located southwest of the 45<sup>th</sup> Street North – Webb Road intersection. The site has frontage on Webb Road. The site is part of approximately 10 unplatted acres, of which the northeast 1.7 acres (465-feet x 160-feet) is zoned "LI". The "LI" property contains a small accessory building. The zoning for "LI" was granted in 1967 to bring a non-conforming use into compliance. The applicant proposes to develop the subject property, plus the already zoned "LI" 1.7-acres, as an office – manufacturing – warehouse complex for "Ancient Formulas Incorporated", a dietary supplement business. The remainder of the 10 acres' zoning will remain "SF-5"

"SF-5" zoning abuts the site on its south, west and north sides. The Webb Acres Addition and the Sun-Air Estates Addition to the south are developed with single-family homes on 9 lots, ¾ - 1½ -acres in size. South of these lots are 3 tracts, zoned "SF-5" each over 4 acres, with houses on two of the lots. The rest of the Sun-Air Estates Addition to the west of the site contains 49 lots, 1 ¼ - 1 ½ acres in size and developed as single family residential. There is a church in this residential area, southwest of the site. North of the site are 13 tracts, ¾ acres to 10 acres in size, and developed as single family residential. There is a vacant lot abutting the site on its north side. The property to the east is zoned "RR" Rural Residential on the north half and "LI" on the south half. The "RR" zoned property is actively used for agriculture. The "LI" zoned property is the beginning of Jabara Airport.

The Jabara Airport development is the northern edge of an extensive section of land zoned "LI" and developed as an airport, manufacturing, warehouse and office complexes. This development begins on the south side of 43<sup>rd</sup> Street North, continues south to the 29<sup>th</sup> Street North – K-96 – Webb Road interchange, goes east to Rock Road south of 37<sup>th</sup> Street North and east to a point roughly half way between Webb Road and Greenwich. This large, active industrial area is not completely developed.

Since the properties to the north, south, west and east have residential zoning, screening and buffer landscaping would be required around the site. The compatibility setback standards would be required around property line unless a Zoning Adjustment is granted by the Planning Director and Zoning Administrator to reduce or waive the compatibility setback.

**CASE HISTORY:** The property is not platted. In the mid-1960's this property and the area around it had its zoning changed because of the extension of the 3-mile Wichita area of zoning influence. As a result of this and the subsequent re-zoning of the property to "R-1" Suburban Residential, a boarding kennel on the property became a non-conforming use. The owners of the property applied for a zoning change of "E" Light Industrial from "R-1" for the area containing the kennel: the 465-feet x 160-feet area on the northeast corner of the site. This change to "E" zoning was to bring the kennel area into compliance, while keeping the rest of the property zoned "R-1". The MAPC recommended denial of the request on 1-26-1967. The BOCC approved the request on 2-15-1967.

**ADJACENT ZONING AND LAND USE:**

NORTH: "SF-5"	Large lot single family residential, vacant
SOUTH: "SF-5"	Large lot single family residential, church
EAST: "RR" & "LI"	Agricultural & Jabara Airport
WEST: "SF-5"	Large lot single family residential, vacant

**PUBLIC SERVICES:** The site has frontage along Webb Road, a paved two (2) lane arterial at this location. The 2030 Transportation Plan projects Webb Road as a four (4) lane arterial. There are no traffic counts available at the 45<sup>th</sup> Street North – Webb Road intersection. There are no City or County CIP projects for Webb Road. Public sewer service is not available and will have to be extended to the property. The Department of Environmental Health does not approve of on site sewage systems in industrial zoning districts. Public Water is available.

**CONFORMANCE TO PLANS/POLICIES:** The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Low Density Residential" development. The Comprehensive Plan recommends that "Low Density Residential" development be located away from adverse surrounding land uses, such as major industrial and commercial areas. The site is either adjacent to or abutted on its west, north and south sides by large lot single-family residential development, which is conformance to the Comprehensive Plan and likely to remain single-family residential. The industrial zoning and development to the east is across Webb Road and is shown in the Jabara Airport Land Use Legend as open area around the Airport's landing and take-off area/air-strips. The Master Plan Update for Jabara Airport shows the case site in an established low-density residential area that is outside the 2015 future noise exposure contours. The low density-residential use in this area is not considered a non-conforming use. A proposed crosswind runway at Jabara Airport was at one time under consideration, but has been removed from the Airport Layout Plan due to potential air traffic conflicts with Raytheon.

**RECOMMENDATION:** Based upon the information available prior to the public hearings, planning staff recommends that the request be DENIED. The Comprehensive Plan does not indicate that an expansion of a small, 1.7 acre, isolated area zoned "LI" would be appropriate for this area, which is recommended for low-density residential. The 1.7 acre site was to bring a pre-existing use into compliance; that use is no longer on the site and it would be an example of "spot" zoning to expand the existing "LI" zoning. "Spot" zoning singles out a parcel of land for special treatment or privileges not in harmony with the other use classifications in the area and without any apparent circumstances that call for different treatment. "Spot" zoning also departs from the Comprehensive Plan.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The site is adjacent to established, large lot single-family residential developments on its north, south and west sides. There is more single-family residential development west of the area and undeveloped "RR" and developed "SF-5" zoning north of the site. All industrial zoning is either approximately ¼ mile south of the site, or southeast of the site and on the east side of Webb Road. The exception is the 1.7-acre section of the 10-acre site that was zoned in 1967 to bring a kennel (that was there prior to the re-zoning in the mid-1960's) into conformance. The immediate area is overwhelmingly residential.
2. The suitability of the subject property for the uses to which it has been restricted: The subject property is zoned "SF-5" Single-Family Residential and developed residential. The site's best use is residential. The kennel on the site is gone and so is the reason for the 1967 light industrial zoning.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The zoning change request is totally out of character with the area. An expansion of the existing 1.7-acre "LI" zoning would allow uses that should be located away from residential development. The requested change would thrust an isolated spot of zoning that would allow some of the least restricted activities into an area that is the under zoning subject to the most restrictive
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for low-density residential development. The request for the "LI" zoning change on the 5.4 acres of the site would introduce uses that should be (but wouldn't be) separated from the existing residential development by open space, water spaces or abrupt changes in topography. The request amounts to an expansion of spot zoning.
4. Impact of the proposed development on community facilities: Impact would be significant. There is no water or sewer available on the site and it would have to be extended to the site. The traffic would go from what is generated by a large single-family lot to a manufacturing facility. This would mean an increase in automobile traffic, as represented by the employees of the proposed business and introduce truck traffic that is not characteristic of low-density residential zoning and development.

If, however, the Planning Commission believes this is an appropriate use, staff recommends approval subject to a platting within a year and a Protective Overlay, to minimize the effect of the proposed "LI" zoning.

- (1) The following uses shall not be permitted:
  - (a) Adult entertainment; microbrewery; liquor store; nightclub; tavern and drinking establishment; multi-game, casino-style gambling facility; pawnshop; tattooing and body piercing.
  - (b) Group residence, limited and general; correctional placement residence, limited and general; correctional facility; day reporting center and drug & alcohol rehabilitation center; Group home, commercial, limited and general; funeral home; personal care service; personal improvement service
  - (c) Asphalt or concrete plant, limited and general; mining or quarrying; oil or gas drilling; rock crushing; solid waste incinerator; gas and fuel storage and sales; wrecking or salvage yard; recycling process center; recycling station private and public; manufacturing general; transfer station; welding or machine shop; agricultural processing and landfill.
  - (d) Vehicle and equipment sales, outdoors; car wash; vehicle repair, limited and general; vehicle storage yard; billboards; wireless communication facility; second hand store; construction sales and service; convenience store; hotel - motel; nurseries and garden center; printing and coping, general and limited; recreation & entertainment, indoor and outdoor; fast food restaurant and restaurant; service station; bank or financial institution; broadcast radio station; funeral home; medical service; hospital; retail general; wholesale or business service; and outdoor storage and self-storage
  - (e) Animal care limited and general and kennel hobby, boarding, breeding and training.
- (2) Compatibility setback standards shall be implemented as well as screening and landscape buffering, per the Unified Zoning Code and the Landscape Code.

- (3) No outdoor work, outdoor storage or outdoor display shall be permitted.
- (4) All buildings shall be designed and built of materials that compliment the residential character of the single-family residential area.
- (5) No outside amplification systems
- (6) All outside lighting shall be directed onto the site and be no taller than 15-feet.
- (7) No structure shall be higher than 35-feet.
- (8) Private on site sewage system would have to be approved by Environmental Health. A restrictive covenant would be required limiting disposal of waste. No hazardous material or waste would be allowed to be disposed of on site.

BILL LONGNECKER, Planning staff presented staff report.

COMMISSION COULTER wants to let the record show that he was contacted on this application prior to this hearing and it has not swayed my opinion at this time. Several Commissioners stated they had been contacted as well via e-mail.

MICHAELIS This property was platted in 1960?

LONGNECKER No it is not platted, it was included in the Wichita 3 mile area of zoning influence in the mid-1960's.

MICHAELIS In that period of time there has been one residence built there?

LONGNECKER Yes.

MICHAELIS Based on the fact that there is no sewer do you really think this is suitable for residential?

LONGNECKER Yes, I do consider it suitable for residential. The most recent development is the development to the south and that is residential.

MICHAELIS But that is one house in 50 years.

LONGNECKER I think there has been more than one house in 50 years built in this area.

MCKAY Where is that Ritchie's rock crusher operation at?

LONGNECKER South of the site, where most of the industrial type uses are located in this area.

BISHOP Is that temporary rock crusher?

LONGNECKER No.

DUNLAP The property on the north side of 42<sup>nd</sup> street, south of this site, is that under a single ownership?

LONGNECKER No, that is multiple-ownership there. You have one building on several lots in that development.

DUNLAP I see two developments there and an empty lot in between them. Are either of those the people who own the lot in between them?

LONGNECKER I believe there are three owners there.

WARREN Is it appropriate for single-family residential? As planners wouldn't we assume that because Webb Road is developed all the way up through K-96 and even now on the north side of K-96 that we are going to continue to see a lot of traffic moving on a major arterial moving on Webb Road? You say it is appropriate for residential. I am having a hard time buying into that when you got what is potentially 1,000 or more cars a day.

LONGNECKER It is zoned and developed residential on the west side of Webb Road and north of 42<sup>nd</sup> Street North. We have extensive industrial zoning that is not completely developed south of the site, down to the loop, and on both sides of Webb to Rock Road. Staff's contention is, that if it wasn't for that 1.7 acres zoned "LI" in the mid-1960's to bring a non-conforming use into compliance, it could be speculated that we would not be looking at this property for rezoning. There is sufficient undeveloped "LI" zoning south of the site.

WARREN I feel residential or industrial is not appropriate maybe we are looking at something in between here.

KIM EDGINGTON, AM CONSUTLING, 142 N. Emporia, Wichita, KS 67202 This is a business that has been in Wichita for about 19 years; they manufacture dietary supplies. They outsource their production and packaging. They have been looking for sometime for a proper location. This would have good access to K-96 and 254. It is in an area of industrial and commercial type uses. It is debatable that this predominately residential; it depends how you look at this. Webb Acre Estates have not been developed they do not have public sewer. They have not had or seen development since 1960. I don't believe this will be developed as a hot bed for residential. Jabarra airport has been looking at expanding jet service out there, and not too many people will want to build houses next to it. There are a lot of industrial uses out there and this is a far less intense use that we are asking for compared to what is out there. It is a clean operation. These products are sold through doctors offices. They are not retailed out of here. The traffic would

be minimum generation. The reason we asked for industrial zoning includes research services and their hope is to do research and laboratory type uses. We do agree with the requirements that staff has placed, but we need the allowance for laboratory and products testing. They would like greenhouses on this property. This business has a need to expand and it is not an intense development and it can be completely compatible with its neighbors.

WARREN With the staff recommended conditions of this Protective Overlay it is obvious it would change the whole dimension of an industrial use. It really wouldn't be an industrial use anymore. You know and I know that there is a stigma with saying industrial even though we have restricted it down to something far less of what we think of as industrial. Is there a lesser zoning that we could consider that would allow these people to do what they want to do without going to industrial?

EDGINGTON The office warehouse would help.

WARREN You could withdraw the industrial request in lieu of Office Warehouse and still implement the Protective Overlay as suggested here subject to a couple of conditions.

EDGINGTON All of those uses that we have excluded out are things that our applicant does not want to be seeing on there and that staff does not want to see on there are pretty high traffic generating things. So we would be agreeable to that.

WARREN Dale could that approval be to reject Limited Industrial and instead Office Warehouse?

MILLER Because "OW" is a less intense zoning district than what was advertised, Limited Industrial, Office Warehouse is an appropriate drop back position. This is the first that I have heard about using Office Warehouse and I would have to ask Bill and the applicant if they are both satisfied to what they want to do is covered by Office Warehouse.

EDGINGTON I can speak for the applicant that we have researched the allowed uses in Office Warehouse and are comfortable that what we are planning to do would be allowed in there.

WARREN And would you still maintain a Protective Overlay as suggested?

BARFIELD We received a couple of letters from residents. Did you talk to them?

EDGINGTON Yes, we did meet with 30 neighbors to help them understand what the plans were.

DAVID MOLLHAGEN, 4341 N. CYPRESS, WICHITA, KS 67226 I live about 1 lot away from the lot that is proposed to be rezoned. There have been eight houses since 1981 that have been built. We would like to make a point as homeowners that there is a hedgerow between us and Ritchie. The makeup of the neighborhood is residential and there are several horses out there on 10 acres that I know of. The make-up of the neighborhood is large lots and we would like to keep it that way. We feel like it is an invasion into the neighborhood. We know about the domino affect. Approve this and then everything changes. When we went from the county to the city, it changed the notification area, and now we have to watch the MAPC agenda to keep informed about what you are doing. West, East, Northwest is residential. If you do agree make this a lower use or a Conditional Use so that if they sell it, then we won't have something like a rock crusher next to me. I am not planning on going anywhere. We ask you to help us to keep our residential neighborhood just that.

MICHAELIS You mentioned that there are eight houses and you live out there, so you are much more familiar with it. How many were in your area or south of this area?

MOLLHAGEN Directly south of this area there has been other than 1981 we had a brick house that was put in two years ago, there was a 3 bedroom full basement house, and there has been a couple of remodels done, and then there was a 3 bedroom single story house put in just south of 42<sup>nd</sup> right next to the church (pointing to houses on the aerial photograph).

MICHAELIS Do you feel like if the City came to you guys and said we are going to put sewer in here and you guys are going to pay for it, what would be your response?

MOLLHAGEN No.

MICHAELIS That's what I thought.

WARREN I don't have a question. I have a comment.

HENTZEN Let's give the applicant two minutes rebuttal.

EDGINGTON The property owned by the applicant is in excess of what we are requesting the zone change on. Therefore, there is about 600 feet of property to the west of this area that still under the ownership of this applicant before you get to the property line of anyone else. So that is a significant buffer area to any of the residences to the west. I know Mr. Mollhagen stated again that the property to the east has residential zoning, however even the Land Use Guide of the Comprehensive Plan recognizes that area will be used for industrial purposes. So given the location of the industrial to the south, and the airport to the east, the expansion of the airport facilities or related airport uses to the north, that this is an appropriate low intensity use that could be buffered very well and will not serve to detract from any of the near by houses.

DUNLAP Can you tell me about the architectural details about what you have planned. Is it a masonry building, a metal building, how tall is it?

EDGINGTON We have agreed to the 35 foot height limitation so it would not be any taller than that. It is a daytime operation so it is not going to be a operation that will be lit up all night long.



MARK AGAHKHANI, 7541 E. KILLARNEY CT, WICHITA KS 67206 The type of building will be like a pharmaceutical type of building, very clean and more clean than most hospital. The outside exterior would be comparable to the neighborhood, we would have it beautifully decorated and nicely done. We are not going to do a junkie building; it is going to be either stucco type, masonry or concrete brick.

WARREN Item 4 says the building will be built of materials that compliment the residential character of the neighborhood is that something that you will be willing to do?

EDGINGTON I think we can work with that. There are a lot of different types of residences in the area and I am not sure what you want use to be like. There is a church that is a metal building.

MOHAMMED AGAHKHANI, 7541 E. KILLARNEY CT, WICHITA KS 67206 I am Mark's brother and part owner of the operation. The type of building is--I don't know if you drive north Webb or no--there is a surgical facility on north Webb right before you get to K-96. Basically, we are looking at that type of building. Several of those buildings have been put up there within the last 4 or 5 years. There is a new hospital also south of the heart hospital there in the corridor. Basically we are looking at that type of development.

EDGINGTON Our question would be is if stucco would be a acceptable building material for this. I don't know that there are any stucco homes in that development.

**MOTION:** To approve the request with the exception to change it to Office Warehouse and we eliminate nurseries and garden center and medical service from Item D of the proposed uses that would not be permitted.

**MICHAELIS** moved, **WARREN** seconded the motion.

**SUBSTITUTE MOTION:** To deny based on the findings listed by staff and most specifically that it is surrounded by residential at this time and it is not in compliance to the Comprehensive Plan and also I would like to add that it gives me so concern that there is no public sewer service available at this time.

**BISHOP** moved **GAROFALO** seconded the motion.

**MOTION FAILS** 4-8. (**MCGINTY, BISHOP, GAROFALO, MARNELL** in favor to deny).

DUNLAP I did go out and look at the area. I do not see a large amount of single-family residential development for several reasons. One is the proximity to the already existing growing industrial area. Second is that this is on Webb Road and Webb Road has been designed as the primary conduit for 254 south and Webb Road and Woodlawn are the two access up north and there is no sewer there. The area is somewhat diverse, but I don't think a building of this type will upset a horse. There is jet service at the airport now; it is not scheduled service but there is jet service there frequently. But I will vote against the motion to approve on the principal that I disagree with protective overlays. I think that we need to define what is necessary and what is appropriate in the Code and in the ordinances and then apply that to any development that is going to happen.

MARNELL I am going to oppose the motion as well. I do think it is spot zoning, and it concerns me that while we have this one parcel with even the protective overlay on it, there is another parcel that adjoins it that has Limited Industrial and combining those two you could probably create a long list of what you could do with that site. I think that it is inappropriate for the area that it is in.

WARREN I am going to vote for the motion because I think this is the only way that these folks can move forward with their project. In general in time to come I think we can discuss these other items.

DUNLAP If we can do it with a Conditional Use as we did on another item not to long ago should the use change then it reverts back to Office Warehouse I don't think we need the protective overlay.

BISHOP I would like to agree that it's spot zoning. It is already being used for residential use and we keep overlooking the phrase "low density"; and there is such a thing as low-density residential use. They have encroachments to the south from the Ritchie plant and I don't think it is fair to do this to them as well.

DUNLAP How many curb cuts are you going to ask for and what is the traffic flow on Webb Road now?

EDGINGTON According to staff report there were no traffic counts provided for Webb Road we will just have one curb cut. This is not being used for single-family residential now; it is undeveloped and vacant and has been for quite some time.

**MOTION:** To approve the request with the exception to change it to Office Warehouse and we eliminate nurseries and garden center and medical service from Item D of the Protective Overlay, of the proposed uses that would not be permitted.

**MICHAELIS** moved, **WARREN** seconded the motion.

DUNLAP I want to abstain.

MILLER I think the By-Laws say that you have to give a reason in order to abstain; that relates directly to conflict of interest, or otherwise it will be counted as an affirmative vote.

**MOTION CARRIES** 6-5-1. (MCGINTY, BISHOP, MARNELL, GAROFALO, MCKAY opposed to motion to approve. DUNLAP abstained.)

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10. **Case No.: CON2003-08** – R.H. Gump Revocable Trust c/o R.H. Gump (owner); Cricket Communications c/o Kim Wimmer and Nordyke Ventures LLC c/o Mark Nordyke (applicants); Ferris Consulting c/o Greg Ferris (agent) request Conditional Use for 135-foot high wireless communication facility disguised as a flagpole on property zoned "LC" Limited Commercial on property described as;

That part of Lot 1, Block A, Gump Addition to Wichita, Sedgwick County, Kansas, described as commencing at the Northwest corner of said Lot 1; thence South, along the west line of said Lot 1, 99.5 feet for a place of beginning, thence East, at right angles, 60 feet; thence South, at right angles, 38 feet; thence West, at right angles, 60 feet to the west line of said Lot 1; thence North, along the west line of said Lot 1, 28 feet to the place of beginning. Generally located 600 feet east of Woodlawn on the south side of Kellogg

**BACKGROUND:** The applicant is seeking a Conditional Use to permit the construction of a stealth flagpole tower (see attached drawing and photograph) for use by Cricket Communications. The applicant proposes an initial height of 135 feet with provisions to extend the height of the tower to 165 feet. The proposed site is zoned "LC" Limited Commercial. Wireless Communication Facilities over 85 feet in height in the "LC" Limited Commercial zoning district may be permitted with a Conditional Use.

The applicant indicates (see attached memos, propagation plots, and topography maps) that the proposed wireless communication facility is needed for Cricket Communications to provide improved wireless telephone capacity along Kellogg. The applicant indicates that they evaluated using the existing tower at Carriage Parkway, and that it does not meet their communication needs. The applicant also indicates that they pursued constructing a tower on the VA Hospital property, but that the time required to negotiate a lease was too long to meet their needs. Finally, the applicant indicates that they evaluated locating their antennas on existing hotel buildings in the vicinity and that these locations do not meet their communication needs and are significantly more costly than the proposed tower (see attached cost comparison).

The proposed tower would be sited on a 2,280 square foot area located 100 feet south of Kellogg and 600 feet east of Woodlawn. Access to the site is proposed via an existing gravel parking lot for a veterinary clinic located on the parent tract. The applicant's site plan (attached) depicts a 38-foot by 60-foot compound enclosed by a 10-foot high solid screening fence with the tower and the initial ground-level equipment shown in the western portion of the compound. Future areas for ground-level equipment are proposed for outside the fenced compound. Per Section IV-B.3.b. of the Unified Zoning Code, screening of future areas for ground-level equipment will be required since the equipment is proposed to be located less than 150 feet from public right-of-way.

Since the tower is proposed to be disguised as a flagpole, the communication antennas will be mounted inside the pole and will not be visible. Also, a United States flag will be mounted to the pole, and the applicant proposes to display the flag at all times, which will require lighting the flag at night. Section III-D.6.g.(5) prohibits nighttime lighting of a wireless communication facility except for aircraft warning lights. Therefore, the Governing Body would need to approve an exception to the supplementary use regulation pertaining to tower lighting for the applicant's proposal to light the flag to be permitted. Another alternative would be to display the flag only during the day, which would alleviate the need to light the tower. This alternative is recommended by planning staff in order to prevent lighting of the flagpole from having a negative visual impact on surrounding residential properties.

The character of the surrounding area is a mixture of commercial and residential uses along the Kellogg corridor, with commercial uses located south of Kellogg and residential uses located north of Kellogg. The properties located east, west, and south of the subject property are zoned "LC" Limited Commercial and are used for vehicle sales. The properties north of the subject property across Kellogg are located within the City of Eastborough and are used for single-family residences and recreational uses.

**CASE HISTORY:** The subject property is a portion of Lot 1, Block A, Gump Addition, which was recorded February 16, 1968. The zoning of the subject property was changed (Z-0913) from "A" Two-Family to "LC" Light Commercial on February 23, 1968.

On July 1, 2002, the applicant submitted a request for a Conditional Use to permit a 130-foot high monopole communication tower on the subject property. The request was first considered by the District Advisory Board (DAB) on August 1, 2002, and the DAB voted (8-1) to recommend that the request be denied. Subsequent to the DAB meeting, the applicant modified the request, and at the Metropolitan Area Planning Commission (MAPC) hearing on August 8, 2002, the applicant presented a modified request for a 130-foot high stealth flagpole tower. The MAPC voted (7-2) to approve the request for a stealth flagpole tower. The decision of the MAPC was appealed to the City Council by a nearby property owner, and since the applicant modified the request after the initial DAB review, the request was scheduled for reconsideration by the DAB prior to the City Council meeting. On September 16, 2002, the DAB voted to recommend that the request be deferred to allow time for a DAB subcommittee to work with the applicant and city staff on developing compromise solutions. On September 17, 2002, the City Council accepted the DAB recommendation and deferred action on the request for one month. Prior to the request being considered by the City Council, the applicant withdrew the request on October 7, 2002, based on erroneous information from planning staff that a new application could be filed immediately.

On October 14, 2002, the applicant filed a new request for a Conditional Use to permit a 135-foot high stealth flagpole tower. On October 18, 2002, the applicant requested a building permit for a 115-foot high "Gump Monument Pillar." On October 29, 2002, the building permit was denied on the basis that the proposed monument was actually a support structure for a wireless communication facility and required approval of a Conditional Use to be permitted. The applicant withdrew the Conditional Use request on November 6, 2002, and on November 15, 2002, the applicant filed an appeal of the denial of the building permit for a monument with the Board of Zoning Appeals (BZA). On December 17, 2002, the BZA considered the appeal and determined that the denial of the building permit was correct.

On March 20, 2003, the applicant requested that the MAPC permit a new Conditional Use request to be filed after six months rather than one year due to significant changes in the application and the physical development of the area. The MAPC voted (8-3) to allow the applicant to submit a new Conditional Use request, which is the subject of this report.

**ADJACENT ZONING AND LAND USE:**

NORTH:	Eastborough zoning	Single-family, park and recreation
SOUTH:	"LC"	Vehicle Sales
EAST:	"LC"	Vehicle Sales
WEST:	"LC"	Vehicle Sales

**PUBLIC SERVICES:** No municipally supplied public services are required. The site has access to Kellogg Drive, a two-lane access road to Kellogg, a four-lane expressway.

**CONFORMANCE TO PLANS/POLICIES:** The Wireless Communication Master Plan is an element of the Comprehensive Plan that outlines the guidelines for locating wireless communication facilities. The Location Guidelines of the Wireless Communication Master Plan indicate that new facilities should be located: 1) on multi-story buildings or other structures; 2) on existing poles in street rights-of-way, parking lots, or athletic fields; 3) on existing towers for personal wireless services, AM/FM radio, television, school district microwave antennas, and private dispatch systems; 4) in wooded areas; 5) on identified city and county properties; or 6) on highway light standards, sign structures, and electrical support structures. The Design Guidelines of the Wireless Communication Master Plan indicate that new facilities should: 1) preserve the pre-existing character of the area; 2) minimize the height, mass, or proportion; 3) minimize the silhouette; 4) use colors, textures, and materials that blend in with the existing environment; 5) be concealed or disguised as a flagpole, clock tower, or church steeple; 6) be placed in areas where trees and/or buildings obscure some or all of the facility; 7) be placed on walls or roofs of buildings; 8) be screened through landscaping, walls, and/or fencing; and 9) not use strobe lighting. The Unified Zoning Code requires wireless communication facilities to comply with a compatibility height standard of one foot of setback for each foot of structure height from adjoining properties zoned "TF-3" or more restrictive. This compatibility height standard can be reduced or waived through a Conditional Use or a Zoning Adjustment.

**RECOMMENDATION:** Planning staff finds that the proposed wireless communication facility conforms to the guidelines of the Wireless Communication Master Plan. The applicant has examined existing tall structures in the area and has demonstrated that co-location is not a feasible option. In an area where extensive beautification efforts, including major renovations to the park in Eastborough, will be undertaken with the Kellogg freeway project, the applicant has taken steps to preserve this visual corridor by disguising the communication tower as a flagpole, which is a prominent feature on numerous properties along this corridor. Based upon these factors and the information available prior to the public hearings, planning staff recommends that the request be APPROVED subject to the following conditions:

- A. All requirements of Section III.D.6.g. of the Unified Zoning Code shall be met.
- B. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.
- C. The support structure shall be a "stealth flagpole" design that is in general conformance with the approved elevation renderings. Antennas or other communication equipment shall not be visible on the exterior of the stealth flagpole. The flag shall not be displayed at night. The flag and flagpole shall not be illuminated.
- D. The support structure shall be 135 feet in height and shall be designed and constructed to accommodate communication equipment for at least three wireless service providers. The support structure and its foundation shall be designed and constructed in such a manner that permits future height extensions to 165 feet and future loading expansions to accommodate communication equipment for at least four wireless service providers.
- E. The applicant shall obtain FAA approval regarding "objects affecting navigable airspace" and "impacts to terminal instrument procedures" for the proposed wireless communication facility and shall comply with all conditions of FAA approval. The applicant shall submit a copy of FAA approval to the MAPD, Office of Central Inspection, and Director of Airports prior to the issuance of a building permit.
- F. Any future ground-level equipment located outside the fenced compound shall be screened in accordance with a revised site plan that must be approved by the Planning Director prior to the issuance of a building permit.
- G. The site shall be developed in general conformance with the approved site plan and elevation renderings. All improvements shall be completed before the facility becomes operational.
- H. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
- I. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the surrounding area is a mixture of commercial and residential uses along the Kellogg corridor, with commercial uses located south of Kellogg and residential uses located north of Kellogg. The wireless communication facility is compatible with the commercial zoning and uses along the south side of Kellogg to which it is immediately adjacent.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "LC" Limited Commercial, and has been developed with a commercial use. A Conditional Use may be granted to permit a wireless communication facility in the "LC" district; however, the facility should conform to the guidelines of the Wireless Communication Master Plan as much as possible.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The only anticipated negative impact is the visual impact of a tall structure in an area developed almost exclusively with one or two story structures. The visual

impact of the tower should be lessened by the stealth flagpole design and the recommended condition to not display the flag during daylight hours only to prevent the need for illuminating the flag at night.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The proposed wireless communication facility conforms to the guidelines of the Wireless Communication Master Plan. The applicant has examined existing tall structures in the area and has demonstrated that co-location is not a feasible option. In an area where extensive beautification efforts, including major renovations to the park in Eastborough, will be undertaken with the Kellogg freeway project, the applicant has taken steps to preserve this visual corridor by disguising the communication tower as a flagpole, which is a prominent feature on numerous properties along this corridor.
5. Impact of the proposed development on community facilities: FAA approval should ensure that the proposed tower does not detrimentally impact the operation of airports in the vicinity.

SCOTT KNEBEL, Planning staff presented staff report.

GREG FERRIS, FERRIS CONSULTING, P.O. BOX 573, WICHITA, KS 67201 We concur with staff findings with the exception of the no lighting requirement. This is the first stealth communication facility in this community. The Wireless Plan encourages this type of stealth tower. The stealth flagpole we are proposing is only 25 inches greater in diameter than a regular flagpole at that height. We could put a flagpole of that height here now by right. The need of this facility on Kellogg is overwhelming. This site will be popular for other carriers who have needs in this area as well. The FCC does allow us to erect these types of facilities, and they require local governments, if there is no other alternative, to allow us to do such. It is in an area that has been approved by other carriers that have not been satisfied with their current service. We have looked at several sites, and this is the only one that really works for this kind of facility. There is an email in your packet from a couple, and I contacted them and said if there was any need for me to present my case to them that I would. They did not find that necessary and did not call me back.

MICHAELIS Is this the same tower that we considered a couple of weeks ago north of Kellogg?

FERRIS No, when staff posted that we were coming to ask to be reconsidered. They said the north side of Kellogg and that was a typo on staff's part, and it was never to be on the north side of Kellogg.

GAROFALO How far is this from any residence?

FERRIS From any single-family residence it is over 600 feet. There is some multi-family to the south that is owned by the Toyota folks and is at considerable distance. There is nothing residential within 300 feet.

DUNLAP How big of flag will we have in comparison to what Davis Moore flies now?

FERRIS It will be bigger than the Davis Moore flag. It will be slightly larger.

BISHOP I note under condition D it mentions that the support structure will go up to 165 feet. I assume that is partially required?

FERRIS Yes, it is by Code. We would be short sighted if we didn't do that. We would design it to be extendable to 25 percent.

BISHOP The flag will go up to?

FERRIS Yes, it is designed to go up in 15 foot extensions. They are sleeves and the flag will mount to the pole. The flag will always be at the top.

ALAN JOSEPH, 22 WILLOWBROOK, WICHITA, KS 67207 I live directly north of the proposed site. I have a plain view of this site. There are no buildings obstructing my view of this site. The merits of the necessity of this facility, I am not an engineer, but I do know that the Wireless Plan calls for buildings to be utilized where they can be, and I am also a tenant of the Hillcrest Financial Center, and that building is available to be used for an antenna. They can put this antenna there. It would work there. Second, after I heard the necessity of Cricket to have more capacity in this area, I rented a Cricket phone for two months and used it in Eastborough and east Wichita, and found the service to be quite good and more than just adequate. There is no such thing as a perfect situation. It can be put on the Hillcrest building. The thing is that these cranes are 80 feet and double that to 160-foot flag pole and put a flag on it. I am all for motherhood and the American way, but this is just an advertising tool. The Kellogg expansion--there are millions of dollars are being spent on it, and the Eastborough Park adjacent to this property--it will have a devastating affect when it is placed there. And there is not a need for this. The applicant has tried. This is the third time. The first time staff opposed the facility. If, in fact, some facility has to go there, just put a monopole there. It would be less visible.

CHARLOTTE FOSTER, 702 COURTLEIGH DRIVE I am the President of the Fabrique Neighborhood Association I went from District Advisory Board II to DAB III because of the redistricting that was done in our neighborhood. As representative of my neighborhood, I feel compelled to speak to you today on this issue, on the requested tower. I am opposed to this request. The neighborhood association did not recommend it, and Harold Johnson testified that they didn't want to look at the cell tower from their corporate headquarters. Steven Motors on the second request withdrew their petitions. D.A.B. II didn't approve it either. Then BZA denied it. What part of "no" does Gump, etc not understand? In addition, this (public notice memo) tells me that this will be heard on May 5, 2003. They are taking advantage of the fact that the City Council member, Susan Schlapp did not have her Board put together, because the normal procedure is for this to go to the D.A.B. before it comes here to MAPC. I ask that you deny this request. College Hill didn't want a cell tower in their neighborhood, and we don't want one either.

RUSTY DENNIS, 5726 CASTLE, WICHITA, KS I am Vice Chairman of the Fabrique Neighborhood Association I am opposed to the request as well, and I heartily endorse everything Charlotte has just said.

GREG FERRIS I think we have provided you information about the Ramada, which is closer to this site, that it is not feasible and does not work, and the Hillcrest works even less. Our Engineers' have looked and looked. The first application was a monopole and that was opposed. We have changed this into something that is going to work. I believe that we have done all the things that the Wireless Plan requires, and we have provided you with this documentation.

**MOTION:** To approve subject to staff recommendation and conditions and to remove the last two sentences in condition "C" about the lighting requirement and add a requirement that the flag shall be lighted only at night.

**ANDERSON** moved, **COULTER** seconded the motion, and it carried (11-1) **BISHOP** opposed.

11. **Case No.: ZON2003-13** – Steve M. Beranek request Zone change from "SF-5" Single-family Residential "TF-3" Two-family Residential on property described as;

Lot 53, Sim Park Gardens Addition, Wichita, Sedgwick County Kansas. Generally located Northeast corner of Murdock and St. Paul

**BACKGROUND:** The applicant requests "TF-3" Two-family Residential zoning on the 9,750-square foot site for duplex development. The site is the undeveloped east half of Lot 53, Sim Park Gardens Addition. The western half of the lot has a single-family residence on it. The site is located on the north side of the Murdock Street – Saint Paul intersection, approximately 130 feet west of the intersection. The site has access onto Murdock.

Properties to the north, west and south of the site are zoned "SF-5" and developed with single-family residences, the exception being a church with its parking immediately south of the site and across Murdock, on "SF-5" zoned property. Properties to the east are zoned "GO" General Office. There are two (2) vacant lots abutting the east and northeast side of the site.

The applicant's site is similar to another site a block south, where there is "TF-3" zoning and duplex development located on the southeast and northeast sides of the Murdock – Elm Street intersection. This area (a block south of the site) abuts "GO" zoning that contains the southern portion of a medical – assisted living – retirement living complex that is adjacent to the east side of the applicant's site. In fact this medical – assisted living – retirement living complex runs north to south from 9<sup>th</sup> Street North to Central, east to west along Edwards and McLean and forms a continuous development with "GO" zoning abutting the predominately single-family residential development west of it, which is where the applicant's site is located.

The proposed zone change, from "SF-5" to "TF-3", and the proposed development, would require conformance to all property development standards in the Wichita-Sedgwick County *Unified Zoning Code* (UZC), including a lot split, the applicant agreeing to not protest any future paving of Murdock, and dedication of an additional four (4) feet to the platted utility easement.

**CASE HISTORY:** The application area is part of the Sim Park Garden Addition, which was recorded with the Register of Deeds 04-15-1924. DAB VI recommended approval of the requested zoning change as recommended by Staff at their 04-16-04 meeting. No one spoke in opposition to the requested zoning change at the DAB VI meeting.

**ADJACENT ZONING AND LAND USE:**

NORTH: "SF-5"	single-family homes
SOUTH: "SF-5"	single-family homes, church
EAST: "GO"	vacant, assisted living duplexes
WEST: "SF-5"	single-family homes

**PUBLIC SERVICES:** Murdock is an unpaved local residential street and St Paul is a paved two (2) lane local residential street. No traffic counts or projections exist for this intersection nor do any CIP plans. City sewer is available to the application area. City water will be extended from St Paul.

**CONFORMANCE TO PLANS/POLICIES:** The "Wichita Land Use Guide of the 1999 *Update to the Wichita-Sedgwick County Comprehensive Plan*, as amended 01/02, identifies the application area as "Low Density Residential". The Land Use Guide does state that "Low Density Residential" may include pockets of higher density residential. The UZC states that the "TF-3" district is generally compatible with the "Medium Density Residential" designation of the *Comprehensive Plan*.

The *Comprehensive Plan* "Wichita Residential Area Enhancement Strategy" classifies the application area as being within the "Conservation Area". Enhancement strategies for that area include zero tolerance code enforcement; and technical/design assistance for homeowners, setback flexibility for building enhancements, and limited financial incentive programs to encourage renovation, remodeling and modernization of older housing stock.

Other *Comprehensive Plan* goals affecting the application area include encouraging residential infill at higher densities (II.A.), and encouraging mixed income residential developments (XI.B3.).

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the zone change request be APPROVED subject to a lot split, the owner/developer agreeing not to protest any future paving of Murdock and dedication of an additional four (4) feet to the platted utility easement.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Most property surrounding the application area is zoned "SF-5" and developed with single-family residences. Some "TF-3" zoning pockets exist in the general area, as do a few two-family

units. The requested zone change and proposed duplex development would not be out of character with the surrounding neighborhood and serve as a transitional zoning district from the "GO" zoning on the east to the "SF-5" zoning to the west.

2. The suitability of the subject property for the uses to which it has been restricted: The application area is zoned "SF-5" and could be developed as a single-family residence with a lot split of the approximately 19,500 square foot lot.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed zone change, from "SF-5" to "TF-3", and the proposed duplex development, would require conformance to all property development standards in the UZC. This zone change, and proposed development, should not have a detrimental effect on nearby property.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The *Comprehensive Plan* "Wichita Land Use Guide" designates the application area as "Low Density Residential", which may include pockets of medium density residential development. Other policies of the *Comprehensive Plan* encourage infill residential development at higher densities.
5. Impact of the proposed development on community facilities: The requested re-zoning would have a minimal effect on community facilities.

**MOTION:** To approve, subject to staff comments and citing the findings in their report.

**MICHAELIS** moved, **COULTER** seconded the motion, and it carried (13-0).

12. **Case No.: CON2003-07** – Cecil Masters request Conditional Use to permit a car wash on property zoned "GC" General Commercial on property described as;

Lot 1 and Lot 20, East Kellogg Acres, Sedgwick County, Kansas, together with vacated 20 foot alley lying between said lots. Generally located Southwest of the Kellogg – Greenwich Intersection

**BACKGROUND:** The applicant is requesting a Conditional Use to allow a car wash to be located within 200 feet of residential zoning. The site is in the "GC" Limited Commercial zoning district. The 2.48-acre site is Lots 1 & 20, East Kellogg Acres Addition, located on the southwest corner of Kellogg – US Highway 54 (Kellogg) and Greenwich Road. The site is currently vacant, but was most recently used as a manufactured home sales lot. Although listed as a permitted use in some zoning districts, car washes shall always be considered a Conditional Use when located within 200 feet of residential zoning.

The site has "GC" zoning abutting its south side and "SF-5" zoning approximately 100 feet south of this "GC" zoning. The site is part of a block defined by Kellogg on its north side, Greenwich Road on its east side, Trig Street (unimproved residential street) on its west side, and the Kansas Turnpike on its south side. The block's northern quarter (1/4), abutting Kellogg, is zoned "GC", contains the site and has been used for non-residential uses but is currently vacant. The southern portion (two lots) of this "GC" zoning district is currently developed as single-family residential. The remaining three quarters (3/4) of the block (14 lots) is zoned "SF-5" and, with the exception of one (1) vacant lot, developed as single-family residential. These 15 homes in the block are the only single family-residential development between Webb Road and Greenwich and between Kellogg and the Kansas Turnpike, which run parallel to each other before they merge a mile east at 127<sup>th</sup> Street East. The mostly brick, single story ranch style homes appear to be, for the most part, well maintained,

East of the site, across Greenwich, the area is zoned "LI", Limited Industrial, "LC" Limited Commercial and "GC". Development includes an auto dealership, Wal-Mart and Lowes. West of the site, the area is zoned "GC" and "SF-5". The "GC" zoning district is vacant and has retail, while the "SF-5" zoning district is undeveloped. North of the site, across Kellogg, the area is zoned "LI", "LC" and "GC". Development includes an auto dealership, a fast food restaurant and undeveloped land.

The applicant has submitted a site plan and provided Staff with additional information for the proposed car wash. There will be no self-service car wash bays; all vehicles (with the drivers in the vehicles) will enter, at one point of access, single-file into a building built of split-faced and/or brick where the vehicles will be automatically washed. There will be a door that automatically opens when the vehicle and driver exits and closes when they are through the doorway. There is one vacuum shown on the side where you enter the car wash, all other vacuuming and detail work occurs within another part of the building. Hours of operation are proposed as 7:00AM – 12:00AM during the spring, summer and fall and 7:00AM – 9:00PM during the winter months. Only passenger cars and light trucks can use the facility. No landscaping was shown on the site plan, however a landscape plan can be submitted later. The Traffic Engineer must approve the circulation and queuing plan. The site plan does generally reflect the proposed ROW for the Kellogg improvements.

**CASE HISTORY:** The site is platted as Lots 1 & 20, part of the East Kellogg Addition and was recorded with the Register of Deeds December 23, 1955.

**ADJACENT ZONING AND LAND USE:**

NORTH:	"GC" General Commercial "LC" Limited Commercial "LI" Limited Industrial	Auto Dealership, fast food, gas station, vacant
SOUTH:	"SF-5" Single-Family Residential "GC" General Commercial	Single-family residential
EAST:	"SF-5" Single-Family Residential "GC" Limited Commercial	Single –family residential, vacant retail
WEST:	"GC" General Commercial "LC" Limited Commercial	Wal-Mart, Lowes, auto dealership, fast food, retail

"LI" Limited Industrial

**PUBLIC SERVICES:** The site has frontage on both Kellogg - US-54 & Greenwich Road. Kellogg is currently a four (4) lane arterial with two (2) turn lanes. Greenwich is currently a four (4) lane arterial with a turn lane for its first approximately 700 feet south of Kellogg. This configuration ends at the traffic light located on the drive into the Wal-Mart – Lowes retail complex east off of Greenwich, after which Greenwich becomes a two (2) lane arterial. The 2030 Transportation Plan projects Greenwich, from Kellogg to Harry Street, to become a 4 lane arterial with a turn lane in the 2002-2011 CIP and construction in 2008-2009. The 2030 Transportation Plan projects Kellogg to become a six (6)-lane freeway, with improvements in the 2002-2011 CIP and construction to begin no sooner than 2010. Average daily trips for the Kellogg – Greenwich Road intersection are 21,166 ATDs west of the intersection and 7,272 ATDs south of the intersection. Projected 2030 ADTs for the intersection are 71, 100 ATDs west of the intersection and in the 16,000 – 22,000 range ATDs south of the intersection. Municipal water and sewer are available to the site.

**CONFORMANCE TO PLANS/POLICIES:** The "Wichita Land Use Guide" of the Wichita-Sedgwick County Comprehensive Plan, as amended 01-02, identifies this property as being "commercial". The Unified Zoning Code requires a Conditional Use for a car wash when it is located any zoning where it is permitted when that site it is within 200 feet of residential zoning. The Unified Zoning Code lists 14 conditions that a car wash must meet, besides the nine "Golden Rules" that are applied to every zoning case. Any modifications recommended by the MAPC to these conditions would require the request to be forwarded to the Wichita City Council for a final decision.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions being met within a year:

- A. The car wash shall be developed and maintained in compliance with all the requirements of Section III-D.6.f of the Unified Zoning Code.
- B. The applicant shall submit a revised site plan for approval by the Planning Director, prior to the issuance of the Conditional Use resolution that meets the requirements of Section III-D.6.f. of the Unified Zoning Code. The revised site plan will also include, but not be limited to, dimensional control, a landscaping plan, solid screening on the west and south property lines, showing a 35-foot setback line along the Kellogg frontage, a circulation and queuing plan approved by the City Traffic Engineer, approval of the proposed drive onto the site by the Traffic Engineer, the number of bay doors, clear indication of the activities within the building, i.e. wash and detail/vacuuming, and indicate any outdoor activities,.
- C. The Public Works Engineer and Storm Water Management approve the drainage from the car wash facility and the property.
- D. The materials and design of the facilities shall be a split-faced concrete block or brick and metal roof. Maximum building height shall be 25 feet.
- E. Bay doors shall automatically close while the vehicles are being washed within the enclosed (building) washing area. Vacuuming and detail work shall be conducting within the building as indicated in the site plan, with the exception of the one vacuum located at the entrance of the wash entrance.
- F. Only passenger cars and light trucks will be serviced.
- G. No billboards
- H. Solid screening around trash dumpster.
- I. The site shall be developed in general conformance with the approved site plan. All improvements shall be completed before the facility becomes operational.
- J. Dedicate an additional 10-feet of ROW along Greenwich and the appropriate amount of ROW along Kellogg, both to be recorded with the Register of Deeds.
- K. After a review of the development and upon appropriate findings, any violation of the conditions of approval will allow the Conditional Use to be declared null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The area is predominately non-residential, with "LI", "GC" and "LC" zoning all around it. The most recent development in the area has been the Lowes – Wal-Mart retail complex east of the site across Greenwich and there is still a significant amount of vacant non-residential property that could be developed. The exceptions are the isolated 15 single-family residences, which all but two are located in the "SF-5" zoning immediately south of the site.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "GC" General Commercial, which accommodates office, retail, commercial and complementary land uses. Given the site's location on the two arterials, one being a US Highway (Kellogg), and the intense commercial character of the area, it could be developed for retail, office, commercial or any other complementary land uses.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Because of the site's proximity to the "SF-5" Single Family residential zoning and development immediately south of it, the detrimental affects of lighting, traffic, noise, hours of operation and other activities that typically accompany car washes could adversely impact the surrounding residential area. However the applicant's proposed carwash confines all washing and vacuuming inside the enclosed (building) areas and it is not proposed to be open for 24 hours. These proposals should minimize the effects of the traffic, noise, trash, lighting and other nuisance factors, including unsupervised outdoor activity that are associated with a car wash
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "commercial" uses. "Commercial" accommodates office, retail, commercial and complementary land use. A car wash could be considered a 'complementary' land use in this area of large box retail and automobile dealerships.

5. Impact of the proposed development on community facilities: Drainage from the facility would have to be approved by the City Engineer and Storm Water Management. Circulation and access of traffic onto the site and off the site would have to be approved by the City Traffic Engineer.

BILL LONGNECKER, Planning staff presented staff report.

DUNLAP You said the change on the setback on Kellogg from 35 feet to 150 feet from the centerline--how much more setback is that?

LONGNECKER He picks up about 15 extra feet. Staff and the applicant are in agreement of the recommendation to approve. There are some items that staff and the applicant have spoken about yesterday and today, and I would like to point out some changes in the recommendation on page 4 of your staff report that are as follows:

Item B we have changed the setback on line 5 to read that the setback will be set off the centerline from Kellogg and extend it 150 foot off of that centerline to establish that setback.

Item D the materials used; the applicant does not propose to used a metal roof; so we will remove that "metal roof".

Item G billboards, the applicant request that condition be removed.

Item J we have changed that rather than dedicate an additional 10-foot of ROW along Greenwich staff has changed that to ask for a dedication of a 10-foot sidewalk easement on Greenwich.

Public Works has also asked staff to add that be a cross-lot access recorded on the south side of the property.

BRIAN RICHARDSON, GREEN LANTERN, 500 GRAVES BOULEVARD, SALINA, KS 67201 We do agree with the recommendation with a minor change and that would be on Item B in regards to the solid screening fence on both the west and the south side. And we are in agreement to the south. But, with the property to the west it, would abut commercial and we would ask that we be allowed not to put a fence there because it does abut commercial and it is 100 plus feet from our building to any residential house.

MCKAY I don't have any problem with your request except if that was my business, I would want something to separate my operation from the other commercial operation. Are you just opposed to the masonry fence, or are you opposed to any type of fence?

RICHARDSON At this time, we have a drainage issue right behind us with the easements and such. So depicting what would exactly go there, we are not opposed to, again, masonry, wood, other type of fence--just some type of fence that would allow us to have some site lines from Kellogg--that would also allow us to block some of that commercial screening that needs to be done to the west.

MCKAY Who is going to make that determination of what screening you are going to use?

RICHARDSON By asking not to be required to do that, we, as the applicant, will be able to make that decision.

MCKAY Someone is going to have to approve what you are going to do, us here today or staff later on. You can't just say we will do what we want to do and be done with it.

RICHARDSON Staff is asking for soft screening and landscaping, and we have to submit that at the same time.

BISHOP What about cross-lot accessibility?

LONGNECKER Traffic was only asking for cross-lot access to property to the south here.

BISHOP I note there are 14 conditions for car washes in the Unified Zoning Code, and anything that we approve that changes any of those means that the case will automatically go to the governing body? Have we done that with all the changes and conditions that you have listed?

LONGNECKER We are asking for a revised site plan that shows more dimension control and landscaping, circulation and queuing. However the applicant is aware of those 14 conditions and has agreed to met to the 14 conditions.

BISHOP So we haven't automatically triggered this to go on to WCC?

LONGNECKER That is correct.

DAVID SHERMAN, 546 Trig, WICHITA, KS We have had an expansion with Kellogg. What was a real quiet area with one-acre lots, now we have a traffic issue and more commercial development. When will you ever be going to finish Greenwich to a four lane to keep them off the sides streets. I am concerned about the drainage. I am concerned about the Kellogg expansion and the frontage roads. They will only have one access. Traffic is getting bad out there, with Walmart, Lowes, Raytheon.

LONGNECKER The 2030 Transportation Plan projects Greenwich from Kellogg to Harry to become a four lane arterial with a turn lane in the 2002-2011 C.I.P., with construction to begin in 2008-2009. They have not got that design ready yet, and there is really no way to tell what that design will be. However they do recognize that there is going to be an increase in traffic and they anticipate a median with 4 lanes.

HENTZEN As that Kellogg is developed from going east now, how far is it going east to Webb Road?



LONGNECKER I stopped at Kellogg and Greenwich doing this report.

JAMSHEED MEHTA, Planning Department The part that is under construction right now will not go past Rock Road. Rock Road is not included in the construction that is happening right now.

HENTZEN Any long-range prediction of the traffic situation at the end of the work that they are doing now?

MEHTA The project happening right now will last another two years, so about the end of 2005 or that range. This section, which is on both sides of Woodlawn, would be done. If everything goes well with KDOT's funds, then the Rock Road project will kick in and we will go forward with the next phase.

HENTZEN Is the plan to go to Greenwich Road or Webb Road?

MEHTA If the section which we call the Rock Road interchange, if and when that happens, that will go up to but will not quite cross Webb Road, but it will cross the entrance to the turnpike.

**MOTION:** To approve subject to the modifications as presented, but to limit the solid screening requirement for the west property line to the southern 60 feet of the west property line.

**WARREN** moved, **MCGINTY** seconded the motion.

DUNLAP Ray will that screening be soft screening or a hard wall?

WARREN Screening as per site plan to be approved by staff.

LONGNECKER Staff is recommending solid screening, which at the very least will be a stockade type screening.

MILLER The solid fence can't be waived; it would have to go to the BZA.

**MOTION CARRIED:** 10-0.

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13. **Case No.: DR2003-08** - The City of Kechi seeks annexation of properties located west of Rock Road and south of Highway 254, adjacent to the City of Kechi

Review by staff has concluded that the proposed annexation is not consistent with the Wichita-Sedgwick County Comprehensive Plan. Furthermore, the adopted Community Development Plans for Kechi and Bel Aire both claim the Heritage Hill Estates subdivision as part of the future growth areas of those respective cities. Staff recommend that the Metropolitan Area Planning Commission find the unilateral annexation proposed by Resolution No. 03-489 of the City of Kechi, to be inconsistent with the adopted Wichita-Sedgwick County Comprehensive Plan.

NALINI JOHNSON, Planning staff presented staff report.

GAROFALO If this had been a requested annexation and not a unilateral, would that change the situation any?

MILLER The MAPC does not have an opportunity to review the requested annexation. It would be strictly a matter between Kechi and the property owners and the County Commission would not be involved.

DEAN KUCKELMAN, 7735 Oak Tree Lane, Kechi, KS 67067 We support the recommendation and find that it is not only inconsistent with the Comprehensive Plan, but also it will not be good for the landowners and property owners. This has been the second time Kechi has tried this since 1998, and at that time they said they wouldn't take us. We urge the Commission to recommend against the annexation. It would not be fair for us to pay for water when we have lagoons and don't want to hook on. The developers plan on assessing the homeowners with the cost whether we do or do not want to. They have promised the City of Wichita that they would not expand east of Rock Road. That promise was made as part of Kechi trying to induce Wichita to allow Kechi to expand the water boundaries because the Water Service Plan does not include Heritage Hill at this point. At the same time they were telling Wichita that they did not plan to expand east of Rock Road, Kechi has told us specifically that the main reasons that they are interested in annexing our property is so that they can go east of Rock Road. So, for those reasons and many others, we request the Commission to adopt the staff recommendation and also to the City of Kechi to drop the annexation. There are 28 property owners in the area that will be affected. We have collected 20 signatures opposing the annexation.

LARRY PARKE, 7200 MillStream Road, Kechi, KS 67067 I strongly agree with the staff that this is inconsistent with the Comprehensive Plan. When built out there, I was planning on living out there without specials. If this resolution is not put down, I will be charged with specials and I don't want to do that again. We have 20 signatures to pass around for you to view and understand how we feel as property owners.

HENTZEN Do you think the people up there your neighbors and friends, would rather be annexed by Wichita or Bel Aire, or Kechi?

PARKE We don't want to be with a third class City that offers nothing and chooses only to take everything. We chose not to be with Bel Aire for we can see a great deal of indebtedness there, and we look to Wichita, not only help but also association and willingness to join if you would ask us to support that.

JAMES HARDAWAY, 7625 MillStream Road, Kechi, KS 60607 When we moved out there we thought we would be a part of Wichita some day. I have been out there 12 years.

JIM ALLEN, 6030 Heritage Hill, Kechi, KS 67067 I believe that Wichita is an answer and we wouldn't mind be annexed there.

DUNLAP The chair gave you an option: Wichita, Bel Aire, Kechi. Is there another option that has not been discussed?

KUCKELMAN I think all of us would like to be left alone, but we don't think that is a reasonable alternative but we are not aware of any other municipality that is a fourth option.

**MOTION:** To support staff's recommendation that this is inconsistent with the Comprehensive Plan.

**DUNLAP** moved, **MICHAELIS** seconded the motion.

**BISHOP** Was there anyone here from Kechi?

**MOTION CARRIED:** 13-0.

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**14. Case No.: DR2003-10** -- The City of Kechi seeks annexation of properties located adjacent to the City of Kechi

Review by staff has concluded that the proposed annexation is consistent with the Wichita-Sedgwick County Comprehensive Plan. Staff recommends that the Metropolitan Area Planning Commission find the unilateral annexations proposed by Resolution Nos. 03-491, 03-492, 03-493, 03-494, 03-495, 03-496 and 03-497 of the City of Kechi, to be consistent with the adopted Wichita-Sedgwick County Comprehensive Plan.

- A) East of Hillside Road and North of 61<sup>st</sup> North
- B) North of 53<sup>rd</sup> Street North and west of Highway 254

**MOTION:** To approve, subject to staff comments and citing the findings in their report.

**MICHAELIS** moved, **COULTER** seconded the motion, and it carried (13-0).

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The Metropolitan Area Planning Department informally adjourned at 4:37 p.m.

State of Kansas     )  
Sedgwick County    ) ss

I, Dale Miller, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on \_\_\_\_\_, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

\_\_\_\_\_  
Dale Miller, Secretary  
Wichita-Sedgwick County Metropolitan  
Area Planning Commission

(SEAL)